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U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA

AUG 19 1988

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISIONSOUTHERN DISTRICT OF INDIANA
JONNA OWEN
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEYMOUR RECYCLING CORPORATION, et al.,

Defendants,

and

AMERACE CORPORATION, et al.,

Third Party Plaintiffs,

v.

U.S. AIR FORCE, et al.,

Third Party Defendants.

Civil Action No.
IP-80-457-C

Judge William Steckler

CONSENT DECREERECEIVED
DEC 12 1988OFFICE OF SUPERFUND
ASSOCIATE
DIVISION DIRECTOR

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UNITED STATES OF AMERICA,)	
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SEYMOUR RECYCLING CORPORATION, et al.,)	
)	Judge William Steckler
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and)	
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AMERACE CORPORATION, et al.,)	
)	
Third Party Plaintiffs,)	
)	
v.)	
)	
U.S. AIR FORCE, et al.,)	
)	
Third Party Defendants.)	

CONSENT DECREE

WHEREAS, the United States of America ("United States") filed a complaint in this case on May 9, 1980, under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6973, and Section 311 of the Clean Water Act ("CWA"), 33 U.S.C. §1321, against the owners and operators of the Seymour Recycling Corporation facility at Freeman Field Industrial Park near Seymour, Indiana, alleging, inter alia, the existence of an imminent and substantial endangerment to human health, welfare and the environment due to the handling, treatment, storage, transportation, disposal and presence of solid and hazardous wastes and other pollutants and contaminants at the Seymour site;

WHEREAS, the United States filed its First Amended Complaint in this matter on October 26, 1982, adding 24 additional defendants who were "generators" of hazardous substances disposed of at the Seymour site, and asserting claims for relief under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§9606 and 9607;

WHEREAS, the "generator" defendants named in the First Amended Complaint entered into a Consent Decree with the United States which was approved and entered by this Court on December 12, 1982, and resulted in the partial cleanup of the Seymour site;

WHEREAS, in 1983 the United States entered into Covenants Not to Sue with more than 200 additional "generators" who paid shares of estimated cleanup costs at the Seymour site based on their alleged volumetric contribution of wastes to the site, which monies totalled approximately \$5.5 million and were deposited into a Court-administered Trust Fund;

WHEREAS, on January 4, 1984, the United States filed a Second Amended Complaint, naming 49 additional defendants, and asserting additional and amended claims for relief;

WHEREAS, certain additional defendants named in the Second Amended Complaint have asserted cross-claims against the City of Seymour and its Board of Aviation Commissioners;

WHEREAS, certain defendants named in the Second Amended Complaint filed Third-Party Complaints on March 12, 1986 and on

August 12, 1987, against third-party defendants, seeking indemnity and/or contribution for any damages, costs or relief ordered by the Court against any of the third-party plaintiffs;

WHEREAS, the United States Environmental Protection Agency ("EPA"), pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, has placed the Seymour site on the National Priorities List ("NPL"), 40 C.F.R. Part 300, Appendix B;

WHEREAS, the EPA completed a "Remedial Investigation" on May 12, 1986 and a "Feasibility Study" on August 29, 1986 (the "RI/FS") for the Seymour site, which included a proposed plan for remedial action at the site, pursuant to the National Oil and Hazardous Substances Contingency Plan ("NCP"), 40 C.F.R. Part 300;

WHEREAS, EPA solicited public comment on the RI/FS between September 15, 1986 and November 7, 1986, and a public hearing was held in the City of Seymour on October 9, 1986;

WHEREAS, after considering comments received from interested members of the public and certain defendants, EPA selected a final remedial action plan for the Seymour site on September 30, 1987, which is set forth in the Record of Decision ("ROD") annexed hereto as Exhibit 1;

WHEREAS, the United States, the State of Indiana, and the Settling Defendants believe that the final remedial action plan reflected in the ROD and in this Decree will attain a degree of cleanup of hazardous substances, pollutants and contaminants at the Seymour site which assures protection of human health and

the environment, and is otherwise in compliance with Section 121 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), and is consistent with the NCP;

WHEREAS, the parties believe that implementation of the final remedial action plan and other provisions of this Consent Decree will expedite the cleanup of the Seymour site and serve the public interest;

WHEREAS, the Settling Defendants deny liability under any federal or state statute, regulation, ordinance or common law for or relating to conditions at the Seymour site, including but not limited to any response costs or damages caused by storage, treatment, handling or disposal activities or actual or threatened release of materials or hazardous substances at the Seymour site;

WHEREAS, the parties agree that settlement of this matter and entry of this Consent Decree is made in good faith in an effort to avoid further expensive and protracted litigation, without any admission as to fact or liability for any purpose, to settle and resolve claims which were and are disputed as to validity and amount;

WHEREAS, the United States, subject to prosecutorial discretion, may seek from those non-settling parties who do not execute and make payments pursuant to this Consent Decree all relief that the United States sought in this action but for which the United States is not compensated by the terms of this Consent Decree or prior settlements;

AND WHEREAS, the Court finds that the settlement of this lawsuit in the manner provided herein is in the public interest;

NOW, THEREFORE; it is hereby Ordered, Adjudged and Decreed:

SECTION I.

JURISDICTION

1. This Court has jurisdiction over the subject matter herein pursuant to 28 U.S.C. §§1331(a) and 1345, 33 U.S.C. §1321, and 42 U.S.C. §§6973, 9606, 9607, and 9613, and jurisdiction over the parties consenting hereto.

SECTION II.

APPLICATION

2. This Decree applies to and is binding upon the State of Indiana, the United States on behalf of EPA, the Department of Interior and the Settling Federal Agencies, the Settling Defendants and their agents, successors and assigns. The undersigned representatives of each party to this Consent Decree certify that they are fully authorized by the party or parties whom they represent to enter into the terms and conditions of this Consent Decree and to bind that party legally to this Decree. The Settling Defendants shall provide a copy of this Consent Decree to the primary Contractor and notice of this Consent Decree to all Contractors and subcontractors who perform work under the Decree.

SECTION III.

DEFINITIONS

3. Whenever the following terms are used in this Consent Decree or in the Exhibits hereto, the following definitions shall apply:

(1) "Agreed Order" means the Agreed Order Regarding Plume Stabilization Project entered in this action on January 28, 1987.

(2) "Alternate Cleanup Standard(s)" means the best achievable cleanup level(s) which may be established by EPA for particular contaminants pursuant to paragraph 24 hereof in the event that a technical impracticability waiver is granted for compliance with one or more of the Cleanup Standards set forth in paragraph 17. If it is necessary to set Alternate Cleanup Standard(s), it is recognized that they must necessarily be set at levels higher than those achieved at the time such waiver is granted to account for hydrogeologic and analytic uncertainty.

(3) "Aquifer" or "aquifers" means either or both the shallow and deep aquifers at the Seymour Site, as defined below.

(4) "Cap" means the multi-media cap to be constructed over a portion of the Seymour Site, as specified in Section XI hereof.

(5) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq.

(6) The "City of Seymour" or "City" means the City of Seymour, Indiana including its Board of Aviation Commissioners.

(7) The "confining layer" is the semi-permeable layer separating the shallow and the deep aquifers and more fully described in Section 5.3.3. of the Remedial Investigation Report.

(8) "Cleanup Standard or Standards" means the criteria respecting the degree of the cleanup intended to be achieved in the groundwater by the remedial action at the Seymour Site, as specified in paragraph 17 of this Consent Decree. The Cleanup Standards are subject to review and modification by EPA as necessary to protect human health and the environment, pursuant to Section 121 (c) of CERCLA. The parties acknowledge that some or all of the Cleanup Standards may not be attainable. Accordingly, provisions are included in paragraph 24 of this Consent Decree setting forth the rights of the parties in the event that achievement of some or all of the Standards is technically impracticable.

(9) "Compliance Point(s)" means the point(s) at which compliance with groundwater Cleanup Standards shall be measured, as specified in paragraph 17.

(10) "Consent Decree" means this Decree and all exhibits annexed hereto.

(11) "Contaminant" or "contaminants" mean any hazardous waste as defined at 42 U.S.C. §6903(5), any hazardous substance as defined at 42 U.S.C. §9601(14), and any pollutant or contaminant as defined at 42 U.S.C. §9601(33).

(12) "Contractor" or "response action contractor" means the company or companies retained by the Trustee on behalf

of the Settling Defendants to undertake and complete work under this Decree. Each contractor and subcontractor shall be qualified to do those portions of the work for which it is retained. Each contractor shall be deemed to be related by contract to each Settling Defendant within the meaning of 42 U.S.C. §9607(b)(3).

(13) "Cost-Effective" means a cost-efficient means of achieving the level of environmental and health protection provided for in this Decree, as reflected in the Cleanup and Performance Standards contained in this Decree, or of meeting other requirements of this Decree.

(14) "Deep aquifer" means the sand and gravel aquifer under and around the Seymour site overlying the shale bedrock and underlying a semi-permeable confining layer. The deep aquifer is more fully described in Section 5.3.2. of the Remedial Investigation Report.

(15) "Defendants" means the original defendants to this action, defendants added by the second amended complaint, and all third-party defendants added by third-party complaints.

(16) "EPA" means the United States Environmental Protection Agency.

(17) "Groundwater" means water contained in the ground below the water table.

(18) "IDEM" means the Indiana Department of Environmental Management.

(19) "National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Contingency Plan promulgated under 42 U.S.C. §9605, at 40 C.F.R. Part 300.

(20) "Nearest Receptor" means the residence, non-agricultural working place, or other place of continued presence of humans that is closest to the boundaries of the Seymour Site, as determined at the time that the calculation of risk is performed. The determination of the Nearest Receptor is made in the direction that is downgradient from the site in the case of groundwater and in the direction that is downwind from the site in the case of air emissions.

(21) "Off-site" means beyond the boundaries of the Seymour Site.

(22) "On-Scene Coordinator" or "OSC" means the federal official defined at 40 C.F.R. §300.6, and identified pursuant to Section XIX of this Decree.

(23) "On site" means within the boundaries of the Seymour Site.

(24) "Parties" means all persons or entities who sign this Consent Decree.

(25) "Plume Stabilization Project or System" means the project or system for groundwater extraction and treatment implemented pursuant to the Agreed Order Regarding Plume Stabilization Project.

(26) "Plume Stabilization Well(s)" means the off-site groundwater well(s) installed as part of the Plume Stabilization Project.

(27) "1983 Pro Rata Settlement Trust Fund" means the court-administered Trust Fund established by the United States in 1983 with the funds received by the United States from its settlement with more than 200 generators who paid pro rata shares of estimated cleanup costs for the Seymour site;

(28) "Project Coordinator" means the person designated by Settling Defendants pursuant to paragraph 77 hereof.

(29) "RCRA" means the Resource Conservation and Recovery Act of 1976.

(30) "Remedial action" or "remedial action work" means all work required or performed pursuant to this Consent Decree and the Remedial Action Plan, including all monitoring, evaluation, and submission of reports required hereunder.

(31) The "Remedial Action Plan" or "the RAP" means the plan for implementation of the remedial action for the Seymour Site annexed as Exhibit 5 hereto, any modifications thereto made in accordance with the provisions of this Decree, and all plans submitted and approved pursuant thereto.

(32) "Remedial Project Manager" or "RPM" means the federal official defined at 40 CFR 300.6 and identified pursuant to Section XIX of this Decree.

(33) "Response Costs" means any costs incurred by the United States pursuant to 42 U.S.C. §§9604, 9606 and 9607 with respect to the Seymour Site.

(34) "Settling Defendants" means those Defendants or other entities who have signed the Consent and Authorization forms attached to this Consent Decree, including the Premium Settling Defendants, but not the Settling Federal Agencies.

(35) "Settling Federal Agencies" means those federal agencies listed on Exhibits 4 and 11 hereto, including the Premium Settling Federal Agencies.

(36) The "Seymour Site" or "site" means the property on which waste storage, treatment, recycling and disposal activities were conducted by the Seymour Manufacturing Company, and subsequently the Seymour Recycling Corporation, located at G Avenue, West Freeman Field, approximately two miles to the southwest of the City of Seymour, Indiana, on land owned by the Seymour Board of Aviation Commissioners on behalf of the City of Seymour, as described more particularly on Exhibit 2 hereto.

(37) "Seymour Site Trust Fund" means the fund established pursuant to Section IV of this Decree, into which the Settling Defendants and Settling Federal Agencies will pay the amounts specified in Section IV and on Exhibit 4 hereto.

(38) "Shallow aquifer" means the sand aquifer which is located a few feet below the land surface at and around the Seymour Site and which overlies the semi-permeable confining

layer. The shallow aquifer is more fully described in Section 5.3.4. of the Remedial Investigation Report.

(39) "Soil vapor extraction system" means the system for the extraction and treatment of soil vapors at the Seymour Site designed, constructed and operated pursuant to Section IX of this Decree.

(40) "State" means the State of Indiana.

(41) "State Project Coordinator" means the person designated by IDEM pursuant to paragraph 77 hereof.

(42) "Superfund Public Health Evaluation Manual" means EPA Publication No. 540/1-86/060.

(43) "Trustee" means the person(s) or entity(ies) appointed pursuant to Section IV of this Decree and the Trust Agreement annexed as Exhibit 3 hereto, who will manage the Seymour Site Trust Fund, and hire, supervise and pay the Contractor(s) on behalf of the Settling Defendants. The Trustee shall be deemed to be the agent of each Settling Defendant.

(44) "Trust Agreement" means the agreement for the establishment, funding and operation of the Seymour Site Trust Fund annexed as Exhibit 3 to this Decree.

(45) "United States" means the plaintiff, the United States of America, including the EPA and the Department of Interior.

SECTION IV

SEYMOUR SITE TRUST FUND

4. Trust Agreement. The Settling Defendants shall execute and file with the Court a signed Trust Agreement establishing the Seymour Site Trust Fund, in the form of Exhibit 3 hereto, within ten (10) days of the entry of this Consent Decree. The Trust Agreement shall be construed to confer upon the Trustee, as agent for the Settling Defendants, all powers and authority necessary to fulfill the obligations of the Settling Defendants under this Consent Decree.

5. Payments to Seymour Site Trust Fund.

a. Within thirty (30) days after the entry of this Decree, each of the Settling Defendants shall pay to the Seymour Site Trust Fund the amount that is shown as a total for that Settling Defendant on Exhibit 4 hereto. The United States agrees to contribute to the Seymour Site Trust Fund on behalf of the Settling Federal Agencies a sum equal to the total of the amounts shown for each federal agency and facility on Exhibit 4. Such payment by each of the Settling Defendants and Settling Federal Agencies is not a fine, penalty or monetary sanction.

b. In the event that any Settling Defendant or Settling Federal Agency fails to pay all or any part of the amount required under subparagraph a. hereof within the time prescribed, the Trustee shall promptly seek the assistance of the Court to obtain such payments. The Trustee shall be entitled to recover interest on such past due amounts, together with all

costs and counsel fees associated with the Trustee's efforts to obtain such payments, from any Settling Defendant, and any Settling Federal Agency to the extent provided for by law, who fails to make timely payment to the Trustee under subparagraph a. If the shortfall in funds resulting from such failure to pay threatens to cause a delay or interruption in the work required to be performed under this Decree or the RAP, the Trustee shall require the other Settling Defendants to pay the amount of the shortfall into the Fund, in the relative proportions shown on Exhibit 4 hereof, adjusted to cover the share of the Settling Defendant(s) who failed to pay. The United States agrees to pay such additional amounts on behalf of the Settling Federal Agencies.

6. Contractor. The Settling Defendants shall instruct the Trustee, pursuant to the Trust Agreement, to hire on their behalf the Contractor(s) to perform the remedial action work that Settling Defendants are required to perform under this Decree. The Trustee shall use the money in the Seymour Site Trust Fund for this purpose.

7. Financial Reports. The Trustee shall submit to the EPA Remedial Project Manager annual reports, by June 1 of each year after entry of this Decree, describing all monies received by and expended from the Trust Fund.

8. Additional Payments to Trust Fund.

a. In the event that the cost of the Settling Defendants' and Settling Federal Agencies' obligations under this

Decree exceeds the total amount paid into the Trust Fund under paragraph 5 hereof, the Trustee shall require the Settling Defendants to pay to the Seymour Site Trust Fund additional amounts, in the same relative proportions shown on Exhibit 4, sufficient to fund such additional cost. The United States agrees to pay such additional amounts on behalf of the Settling Federal Agencies, subject to the availability of appropriated funds. All such payments shall be made upon notice from and within the time prescribed by the Trustee. Any dispute between or among the Trustee, Settling Defendants, or Settling Federal Agencies regarding the amount, purpose or other matters pertaining to such additional payment shall be resolved in accordance with the Dispute Resolution provisions of Section XXI of this Consent Decree. The United States or the Trustee shall have the right to move the Court to compel payment of any such funds to the Trustee.

b. In the event that any Settling Defendant or Settling Federal Agency fails to pay all or any part of the additional amounts required under subparagraph a. hereof within the time prescribed by the Trustee, the Trustee shall promptly seek the assistance of the Court to obtain such payments. The Trustee shall be entitled to recover interest on such past due amounts, together with all costs and counsel fees associated with the Trustee's efforts to obtain such payments, from any Settling Defendant, and any Settling Federal Agency to the extent provided for by law, who fails to make timely payment to the Trustee under

paragraph 8.a. If the shortfall in funds resulting from such failure to pay threatens to cause a delay or interruption in the work required to be performed under this Decree or the RAP, the Trustee shall require the other Settling Defendants to pay the amount of the shortfall into the Fund, in the relative proportions shown on Exhibit 4 hereof, adjusted to cover the share of the Settling Defendant(s) who failed to pay. The United States agrees to pay such additional amounts on behalf of the Settling Federal Agencies, subject to the availability of appropriated funds.

c. The Trustee shall require payment of additional payments pursuant to this paragraph in sufficient time to assure the uninterrupted progress and timely completion of all phases of the remedial action work.

SECTION V

PERFORMANCE OF THE REMEDIAL ACTION WORK BY SETTLING DEFENDANTS

9. a. The Settling Defendants shall perform, and the Settling Defendants and the Settling Federal Agencies shall finance, the remedial action work for the Seymour Site, as described in this Decree, in the Record of Decision ("ROD") attached as Exhibit 1 hereto, and in the Remedial Action Plan ("RAP") attached as Exhibit 5 hereto or in any modifications to the RAP adopted pursuant to paragraph 11 below. The ROD, the RAP and all modifications to the RAP are hereby incorporated by reference and made a part of this Decree. The remedial action shall be performed in accordance with all the provisions of this

Decree, the RAP, any modifications to the RAP, and all design specifications, work plans or other plans or schedules attached to or approved pursuant to the RAP. In the event of any conflict between the Decree and the RAP, the Decree shall control. In the event of any conflict between the ROD and the Decree, the Decree shall control, but nothing herein shall preclude the United States or the Settling Defendants from moving the Court to modify the Decree to conform with the ROD or the United States from modifying the ROD in accordance with CERCLA and the NCP.

b. In the event that no significant comments are received within 30 days of the lodging of this Consent Decree, then the provisions in Section 7 of the RAP which establish deadlines based on time passed since "lodging" shall, for purposes of assessing stipulated penalties, be extended for 30 days.

If significant comments are received during the 30 days after lodging, and EPA determines that significant changes to the design studies required under Section 7 of the RAP are necessary, the provisions in Section 7 of the RAP which establish deadlines based on time passed since "lodging" shall, for purposes of assessing stipulated penalties, be construed as time passed since "entry."

10. As described with particularity in the RAP, the major components of the remedial action for the Seymour Site are as follows:

- (1) A groundwater extraction and treatment system;
- (2) Interim surface run-on and run-off controls, including construction and strengthening of berms, and grading to collect run-off for treatment as necessary;
- (3) A soil vapor extraction system to reduce the volume, toxicity and mobility of volatile contaminants in on-site soils;
- (4) Enhanced biodegradation to reduce the volume, toxicity and mobility of organic contaminants in the soil on-site;
- (5) A Cap of natural and synthetic materials, to provide protection against surface exposure to or dispersal of remaining soil contaminants and to minimize the risk of their migration into the groundwater;
- (6) A monitoring program to monitor the effectiveness of the remedial action;
- (7) Demolition of on-site structures, with rubble to be incorporated into the backfill beneath the cap;
- (8) Sediment removal from designated areas on and off-site, to be incorporated into the backfill beneath the cap;

- (9) On-site disposal of drummed materials (except any spent carbon) that are on-site at the time of entry of the Decree and drill cuttings generated during implementation of authorized response activities at the Site, to be incorporated into the backfill beneath the cap;
- (10) Off-site treatment or disposal of spent carbon at an authorized facility;
- (11) Sealing and abandonment of wells in accordance with State law, including approximately 100 residential and business water supply wells in the Snyder Acres subdivision (if consent of the owners is obtained), and selected on-site monitoring wells;
- (12) Deed restrictions relating to the use of the Seymour Site and surrounding property, and relating to the installation and use of wells on surrounding property;
- (13) A security fence surrounding the Site.

11. Modification of RAP

(a) The Remedial Action Plan annexed as Exhibit 5 to this Decree reflects the parties' best efforts to devise a plan that will implement effectively the remedial action requirements for the Seymour Site set forth in the ROD and this

Decree. In the event that any provision of the RAP proves to be ineffective in accomplishing the Performance and Cleanup Standards or other requirements for the various remedial action technical components set forth in this Decree, EPA or Settling Defendants may request that relevant sections of the RAP be modified to make better provision, consistent with all the terms of this Decree, for remedial action(s) which are reasonably capable of accomplishing the Performance and Cleanup Standards or other requirements of the Decree in a Cost-Effective manner. Nothing herein shall be construed to authorize EPA or IDEM to require Settling Defendants to implement any technology other than technologies of the type specified in this Decree unless such technology is necessary to protect human health and the environment. Any request for modification of the RAP under this paragraph, and the final responses of the other parties, shall be reflected in writing and served upon all the parties.

(b) Modification by Agreement. If the parties agree, modification of the RAP may be effected by written agreement filed with the Court.

(c) Determination by EPA. In the event of a dispute among the parties as to the need for or the nature of a proposed modification to the RAP, relating to the selection or adequacy of the response action to be implemented, EPA shall make a determination, based on an administrative record that includes all relevant information submitted by the parties and/or considered by EPA, as to whether and how the RAP shall be

modified. Settling Defendants may challenge any such determination in accordance with the dispute resolution provisions of Section XXI hereof.

12. Government Review and Approval of Plans. Upon review of design specifications, work plans or other plans, or reports submitted by Settling Defendants or their contractor(s) for approval by EPA or IDEM pursuant to this Decree or the RAP, EPA and IDEM shall notify Settling Defendants promptly in writing of approval, disapproval or required modifications. Such notice shall specify any deficiencies and the reasons for disapproval or required modifications. Disapproved plans or reports shall be revised and required modifications shall be made and submitted as promptly as possible, subject to the dispute resolution provisions referred to below. Any disputes as to disapproval or required modifications shall be resolved in accordance with Section XXI of this Decree.

SECTION VI

COMPLIANCE WITH APPLICABLE LAWS; PERMITS

13. Except as exempted pursuant to Section 121(e)(1) of CERCLA, all activities undertaken by the Settling Defendants pursuant to this Consent Decree are to be performed in accordance with the requirements of all applicable federal, state and local laws, regulations and permits.

14. The Settling Defendants shall obtain all permits or approvals necessary for any portion of the remedial action work under federal, state or local laws, except those exempted

pursuant to Section 121(e)(1) of CERCLA, and agree to submit applications and other information as may be required in accordance with all such laws. The parties have determined, to the best of their knowledge, that the following permits or approvals are currently required:

- a. Authorization to discharge extracted groundwater to the Seymour POTW; and
- b. Federal Aviation Administration approval as to height of structures.

SECTION VII

GROUNDWATER EXTRACTION SYSTEM

15. The Settling Defendants shall design, construct, operate and maintain a groundwater extraction system in accordance with the provisions of this Section VII, the RAP, and all work plans attached to or approved pursuant to the RAP.

16. Description. The groundwater extraction system shall consist of extraction and monitoring wells, and associated structures or equipment, in the shallow and deep aquifers at and around the Seymour Site, as specified below or in the RAP. The extraction wells are to be installed for the purpose of removing contaminated groundwater.

17. Performance and Cleanup Standards. The groundwater extraction system shall be designed, constructed, operated and maintained to prevent further migration of contaminants in excess of Cleanup Standards into uncontaminated areas of the shallow aquifer, to prevent the migration of

contaminants from the shallow to the deep aquifer that would result in contamination of the deep aquifer in excess of Cleanup Standards, and to attain expeditiously each of the following Cleanup Standards in the groundwater at and beyond the boundaries of the Seymour Site. Except as otherwise specified in subparagraphs a. and d., the Compliance Point shall be all extraction and monitoring wells at or beyond the Site boundaries:

a. Maximum Contaminant Levels ("MCL's") established under the Safe Drinking Water Act at the time of entry of this Decree or at any subsequent time while the Decree is still in effect, including but not limited to the following MCL's currently established at 40 CFR Part 141, Subpart B:

barium (1000 ug/l)¹
benzene (5 ug/l)
cadmium (10 ug/l)
chloroform (100 ug/l)
1,2 dichloroethane (5 ug/l)
1,1 dichloroethene (7 ug/l)
lead (50 ug/l)
trichloroethene (5 ug/l)
vinyl chloride (2 ug/l)

MCL's must be met both at and beyond the Site boundaries and at the Nearest Receptor.

b. Maximum Concentration Limits specified in the Groundwater Protection Standards promulgated under RCRA, established at the time of entry of this Decree or at any subsequent time while this Decree is still in effect, including but not limited to the following standards currently set forth at 40 CFR 264.94(a)(2):

¹ Ug/l = micrograms per liter.

barium (1000 ug/l)

cadmium (10 ug/l)

lead (50 ug/l)

c. Water Quality Criteria established under the Clean Water Act, established at the time of entry of this Decree or at any subsequent time while this Decree is still in effect, that have been adapted for drinking water only (currently set forth in the Superfund Public Health Evaluation Manual) or designed for protection of freshwater aquatic organisms;

d. A maximum cumulative excess lifetime cancer risk level of 1×10^{-5} at and beyond the site boundaries and of 1×10^{-6} at the site's Nearest Receptor, to be calculated in accordance with the following provisions:

(1) The cumulative risk calculation shall be performed in accordance with the methods employed by EPA in the Superfund Public Health Evaluation Manual and any subsequent revisions in effect at the time the calculations are performed. The toxicity data used shall be the most current data contained in such Manual or available from EPA's Cancer Assessment Group.

(2) The compounds to be considered in the calculation of the cumulative excess cancer risk must include all compounds identified at the time of calculation as possible, probable or known human carcinogens, including the following compounds currently designated as such, that have been identified in the groundwater at the Seymour site:

benzene
chloroform
1,2 dichloroethane
1,1 dichloroethene
1,4 dioxane
methylene chloride
tetrachloroethene
1,1,2 trichloroethane
trichloroethene
vinyl chloride

(3) If the soil vapor extraction system is still in operation at the time the calculation is performed, the calculation of the cumulative excess lifetime cancer risk at the Nearest

Receptor must include the risk from both air and groundwater; and

e. A maximum chronic health index (HI) of 1 for non-carcinogenic health effects, calculated in accordance with the Superfund Public Health Evaluation Manual and any subsequent revisions, for all compounds identified in the groundwater at the Seymour site for which MCL's, reference doses or other data required for the HI calculation is available, including the following compounds for which such data is currently available:

barium
benzene
copper
2-butanone
cadmium
chloroform
ethyl benzene
lead
manganese
methylene chloride
nickel
phenol
tetrachloroethene
toluene
1,1,1 trichloroethane
xylenes
vinyl chloride

18. Shallow Aquifer.

a. System Design. Unless otherwise approved by EPA and IDEM, the groundwater extraction system in the shallow aquifer shall include the Plume Stabilization System, as provided below, and extraction wells located as close as practicable to the downgradient site boundary of Part A of the Seymour Site (indicated on Exhibit 2 hereto), in accordance with the RAP. The number, capacity, location, pumping rates and other specifications for the wells shall meet the requirements of this Decree, the RAP and the work plans submitted and approved pursuant to the RAP.

b. Incorporation of Plume Stabilization System.

Prior to completing the design of the groundwater extraction system for the shallow aquifer, the Settling Defendants shall complete the step test and aquifer test required by the Agreed Order Regarding Plume Stabilization Project. The results of such tests, as well as any other data generated by the Plume Stabilization Project at the time of completing the design, shall be considered in determining the locations and pumping rates of the groundwater extraction wells in the shallow aquifer to be proposed in the design specifications and work plans submitted pursuant to the RAP. The design specifications and work plans shall include provisions for the continuation or modification of all or part(s) of the Plume Stabilization System as part of the groundwater extraction system. The Agreed Order Regarding Plume Stabilization Project shall continue in full force and effect until terminated pursuant to Section IX of such Order. In the event of any inconsistencies between the Agreed Order and this Consent Decree, the Consent Decree shall control. In any event, the Settling Defendants shall continue to operate the Plume Stabilization System in accordance with the Agreed Order and this Consent Decree until it is incorporated into the shallow aquifer extraction system under the Decree.

c. Monitoring. The Settling Defendants shall install monitoring wells in the shallow aquifer in accordance with the RAP. The number, location and configuration of the wells shall be sufficient to determine the extent and location of

contaminated groundwater on and off the site, and the performance of the groundwater extraction system in the shallow aquifer.

d. EPA and IDEM Approval. The Settling Defendants shall submit detailed technical plans for the shallow aquifer groundwater extraction system, in accordance with the requirements of this Decree and the RAP, for approval by EPA and IDEM pursuant to the schedule set forth in paragraph 20 below, and shall implement the plans in accordance with the approvals.

19. Deep Aquifer

a. Monitoring. The Settling Defendants shall design, install, operate and maintain monitoring wells in the deep aquifer in numbers and locations sufficient to detect the occurrence and extent of any migration or threatened migration of contaminants beyond the site boundary. The wells shall be of sufficient design to enable them to be pumped to capture contaminants in excess of Cleanup Standards that have migrated or are threatening to migrate beyond the site boundary. The Settling Defendants shall monitor the quality of groundwater from selected deep aquifer monitoring wells in accordance with the requirements of this Decree and the RAP. Deep Aquifer Monitoring Well 222 shall be tested and sampled in accordance with the RAP prior to abandonment of the well.

b. Corrective Action for Actual or Threatened Off-Site Migration in Deep Aquifer. If groundwater monitoring in the deep aquifer indicates that the Cleanup Standards set forth in paragraph 17 are being exceeded or are reasonably likely to be

exceeded at or beyond the Site boundaries, the Settling Defendants shall give notice to EPA and IDEM within five (5) working days of receipt of such monitoring results. Settling Defendants shall resample the wells within ten (10) working days of the notice to confirm the analytical results, and shall submit the results of the confirmation analysis to EPA and IDEM as expeditiously as practicable, including by requesting the laboratory to expedite the sample analysis.

(1) Threatened Migration

If the resampling confirms that Cleanup Standards are not currently exceeded but are reasonably likely to be exceeded at or beyond the Site boundaries, within 45 days of their receipt of the confirmation results Settling Defendants shall submit to EPA and IDEM an analysis of conditions and the potential threat of migration of contaminants in excess of the Cleanup Standards beyond the Site boundaries. Such analysis shall include a proposal for any necessary remedial action that will prevent, in a Cost-Effective manner, migration of contaminants in the deep aquifer beyond the Site boundaries in excess of the Cleanup Standards set forth in paragraph 17. Upon approval of any necessary remedial action plan by EPA and IDEM, Settling Defendants shall implement such plan as expeditiously as practicable and in accordance with the terms of the approval granted. If EPA or IDEM disagrees with the Settling Defendants' proposal, it shall state the basis for such disagreement in

writing and afford Settling Defendants a reasonable opportunity to respond.

(2) Actual Migration

(a) If the resampling indicates the presence of contaminants in excess of Cleanup Standards at or beyond the Site boundaries, Settling Defendants shall submit a plan for remedial action to EPA and IDEM within 60 days of their receipt of the resampling results. Such plan shall include an analysis of the effectiveness of the existing groundwater extraction system in preventing migration of contaminants beyond the Site boundaries in the deep aquifer, possible modifications of such system, a review of alternative remedial technologies available at that time, and a proposal for remedial action that will, in a Cost-Effective manner, prevent migration of contaminants in excess of Cleanup Standards beyond the Site boundaries and clean up any contaminants that have migrated beyond the Site boundaries to the Cleanup Standards set forth in paragraph 17 hereof as expeditiously as practicable. Upon approval by EPA and IDEM, Settling Defendants shall implement such plan as expeditiously as practicable and in accordance with the terms of the approval granted. If EPA or IDEM disagrees with the Settling Defendants' proposal, it shall state the basis for such disagreement in writing and afford Settling Defendants a reasonable opportunity to respond.

(b) If the resampling indicates the presence of contaminants in excess of Cleanup Standards at or beyond the Site

boundaries, within 60 days of their receipt of the confirmation results Settling Defendants shall also commence pumping of the existing deep aquifer well(s) and discharge of the extracted groundwater in accordance with Section VIII hereof and the RAP. Such pumping shall continue for the duration specified in paragraph 23 hereof.

20. Schedule for Design, Construction and Operation of Groundwater Extraction System.

a. Submission of Plans. The Settling Defendants shall submit to EPA and IDEM for approval technical plans and schedules for the design, construction, operation, maintenance and monitoring of the groundwater extraction system, in accordance with this Decree and the RAP, on the schedule set forth in Section 7 of the RAP.

b. Construction. Construction of the groundwater extraction system shall commence and be completed in accordance with the schedule set forth in or approved pursuant to Section 7 of the RAP.

c. Operation. Operation of the groundwater extraction system shall commence in accordance with the schedule specified in or approved pursuant to Section 7 of the RAP and shall continue for the duration specified in paragraph 23 below.

21. Operation and Maintenance. The groundwater extraction system shall be operated and maintained in accordance with the provisions of the RAP and all plans submitted and approved under this Decree.

22. Monitoring. Settling Defendants shall monitor groundwater quality at and around the Site and the performance of the groundwater extraction system, in accordance with the requirements of paragraphs 18.c. and 19.a. of this Decree, the RAP, the QAPP, and all approved plans submitted pursuant to this Consent Decree.

23. Duration of Operation of Groundwater Extraction System.

a. Demonstration of Compliance. The groundwater extraction system shall be operated and maintained until Settling Defendants can demonstrate to EPA that they have consistently achieved the Cleanup Standards set forth in paragraph 17 above at the Compliance Points for at least three (3) consecutive years (except to the extent that compliance with particular standard(s) is waived pursuant to paragraph 24 hereof), and that there is no significant likelihood, based on best scientific judgment, that contamination of the groundwater (above the Cleanup Standards) will recur at the Compliance Points if operation of the system is terminated. Upon EPA's acceptance of such demonstration, operation of the system may be terminated.

b. Post-Termination Monitoring.

(1) Thirty-Year Period. Subject to the provisions of subparagraph (2) below, monitoring of the groundwater, in accordance with this Decree and the RAP, shall continue for thirty (30) years after operation of the system is terminated pursuant to subparagraph a.

(2) Re-Starts. In the event that post-termination monitoring shows that one or more Cleanup Standards (or, in the case of a contaminant for which a waiver has been granted pursuant to paragraph 24, an Alternate Cleanup Standard) is exceeded or reasonably likely to be exceeded at the Compliance Points (which for purposes of determining restarts, do not include Extraction Wells), Settling Defendants shall re-commence operation of the groundwater extraction system as soon as practicable after receipt of notice from EPA, and shall continue operating the system until such time as they can again make the demonstration of compliance required under subparagraph a. The same demonstration shall be required for Alternate Cleanup Standards as for Cleanup Standards. At such time, Settling Defendants also shall submit for EPA approval, in accordance with the RAP, a plan for an additional period of post-termination monitoring to follow the additional period of operation of the groundwater extraction system pursuant to this subparagraph, but in no event shall the total period of post-termination monitoring be less than 30 years after the first termination of operation of the system pursuant to subparagraph a. hereof or paragraph 24.

24. Technical Impracticability

a. Petition. After a minimum of twelve (12) years of operation of the groundwater extraction system, the Settling Defendants may petition EPA to waive compliance with one or more of the Cleanup Standards set forth in paragraph 17 based upon a demonstration, pursuant to Section 121(d)(4) of CERCLA,

that achievement of such Cleanup Standard(s) is "technically impracticable from an engineering perspective."

b. Determination. EPA shall review and consider the information in the Petition submitted pursuant to subparagraph a. and shall make a determination, in accordance with applicable laws and regulations in effect at the time of the petition, as to whether compliance with any of the Cleanup Standards shall be waived, what Alternate Cleanup Standards, if any, or other protective measures (including institutional controls) if any, shall be established; and whether operation of the groundwater extraction system shall be modified or terminated in whole or in part.

c. Review. Settling Defendants may challenge EPA's determination under subparagraph b. in accordance with the dispute resolution provisions of Section XXI of this Decree.

d. Disagreements between EPA and IDEM. In the event that EPA determines that any petition submitted pursuant to subparagraph a. shall be granted in whole or in part, and IDEM disagrees with such determination, IDEM may commence a dispute resolution proceeding pursuant to Section XXI hereof.

e. Five-year review. Any technical impracticability waiver that is granted pursuant to this paragraph shall be subject to the five-year review provision of Section XV of this Decree and Section 121(c) of CERCLA.

f. Other waivers. Nothing herein shall preclude Settling Defendants from petitioning EPA for any other waiver pursuant to Section 121(d)(4) of CERCLA.

SECTION VIII.

GROUNDWATER TREATMENT SYSTEM

25. Settling Defendants shall design, construct, operate and maintain, in accordance with this Decree and the RAP, a groundwater treatment system of sufficient capacity and design to remove contaminants from the groundwater extracted by the wells installed and operated pursuant to Section VII hereof.

26. Description. The groundwater treatment system (described in further detail in the RAP) will include an on-site facility for the treatment of extracted groundwater, consisting of air stripping, carbon adsorption, filtration and other components as necessary and appropriate for achieving either the pretreatment requirements or direct discharge requirements set forth below.

27. Point of Discharge.

a. Seymour POTW. Extracted groundwater shall be discharged to the City of Seymour's sewer system and publicly-owned treatment works ("POTW"), unless the discharge is unable to meet the requirements of paragraph 28.a. below. In addition to paying the amount shown on Exhibit 4 to the Seymour Site Trust Fund, the Seymour Manufacturing Company shall be solely responsible to the City for any sewer use fee charges. There shall be no sewer use fees charged to the other Settling

Defendants, the Settling Federal Agencies or the Seymour Site Trust Fund for any effluent received by the POTW from the Site.

b. Alternative Points of Discharge. If for any reason the Seymour POTW is unavailable as a point of discharge, the Settling Defendants shall submit to EPA and IDEM a plan evaluating alternative points of discharge, and recommending an alternative that will meet legally applicable or relevant and appropriate requirements and standards. The plan shall include specifications for the alternative point(s) of discharge and for modification of the groundwater treatment system if necessary to meet legally applicable or relevant and appropriate requirements and standards, and a proposed schedule for implementation. If such modification to the treatment system requires amendment of the description of the system in the RAP, such modifications shall be made in accordance with paragraph 11 hereof.

c. Permit Applications. Within 30 days of EPA's approval of the plan submitted pursuant to subparagraph b., Settling Defendants shall submit any necessary permit applications to implement the plan approved by EPA.

d. U.S. EPA and the State believe that the groundwater treatment system described in paragraph 26 is technology that is capable of achieving "Best Available Technology Economically Achievable" requirements of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.

e. City's Responsibility if POTW is Unavailable. If for any reason the Seymour POTW is, or becomes, unavailable as

a point of discharge, the City shall, notwithstanding the provisions of paragraph 104, be responsible for 15% of all increased groundwater remediation costs incurred as a result of such unavailability. If an alternative discharge point is required because the effluent from the Seymour Site fails to meet the requirements of the Discharge Authorization (as defined in paragraph 29.c.), then the City shall not be required to pay any portion of the resulting increased groundwater remediation costs.

28. Pretreatment Requirements.

a. Discharge to POTW. Effluent from the groundwater extraction system discharged to the City of Seymour's POTW shall meet all legally applicable federal, state and local requirements. If any discussions are commenced or proposals made to or by the State or EPA to modify any such requirements, including without limitation the City's NPDES permit, the City shall promptly provide the Trustee with notice of such discussions or proposals. The City shall also allow the Trustee to participate in any related negotiations and grant the Trustee the right to object to any such modification.

b. Discharge to Alternative Point. If the groundwater extraction system discharges to a point other than the Seymour POTW, as determined pursuant to paragraph 27, the effluent shall meet legally applicable or relevant and appropriate standards as specified by EPA. If IDEM disagrees with EPA's determination, it may submit the matter for dispute resolution pursuant to Section XXI hereof.

29. Schedule for Design, Construction and Operation of Groundwater Treatment System.

a. Submission of Plans. The Settling Defendants shall submit to EPA and IDEM for approval plans and specifications for the design and operation of the groundwater treatment system in accordance with this Decree and the RAP on the schedule set forth in or approved pursuant to Section 7 of the RAP. The Settling Defendants may modify the planned pretreatment method described in paragraph 26 above and in the RAP if they can demonstrate to EPA, IDEM and the City that the alternative system can meet the pretreatment requirements of paragraph 28 above. Plans and specifications shall include those for a new dedicated sewer line from the Seymour Site to the nearest lift or pumping station.

b. Construction. Construction of the groundwater treatment facility shall be completed and the facility shall commence operations by the time that the groundwater extraction system commences operation, as specified in the schedule set forth in or approved pursuant to Section 7 of the RAP.

c. Discharge Authorization. The City and the Settling Defendants have agreed to the terms of a discharge authorization permit (the "Discharge Authorization") setting forth the requirements which govern the discharge from the Site to the POTW. Any modifications to the Discharge Authorization or to any applicable local ordinance shall not impose any

unnecessary and unreasonable restrictions or requirements on the discharge from the Site. The City has reserved and will continue to reserve, so long as may be necessary to achieve the groundwater remediation requirements of this Decree, sufficient capacity at its POTW to treat the flow from the Site at a rate of up to 300 gpm.

d. POTW Sludge. The City shall, if necessary, use its own agricultural property for land application of sludge from the POTW if such use is in compliance with all relevant State and federal statutes and regulations.

30. Operation and Maintenance, Duration, and Monitoring

a. Operation and Maintenance; Duration. The groundwater treatment system shall be operated and maintained for so long as operation is necessary to meet the requirements for discharge of effluent to the Seymour POTW or to meet standards applicable to any alternative point of discharge. Operation and maintenance shall comply with all provisions of this Decree and the RAP.

b. Operator. At all times during the operation of the groundwater pretreatment system, the City shall provide at its expense an employee, for up to 25 man-hours per week, to operate the system. If necessary, the Seymour Site Trust Fund shall pay the costs of having such employee properly trained. The terms of the City's obligation to provide such employee are further set forth and explained in Section 4.6 of the RAP. Such employee or operator and the City as agents of the Settling

Defendants shall be liable only to the extent that other response action contractors would be liable under 42 U.S.C. §9619.

However, the City as a Settling Defendant shall remain liable to the United States to the extent that other Settling Defendants or Premium Settling Defendants are liable under this Consent Decree for the performance of remedial action.

c. Monitoring. Settling Defendants shall monitor the performance of the groundwater treatment system in accordance with the requirements of the RAP and the discharge authorization. The Seymour Site Trust Fund shall pay all costs for monitoring and analysis required of the City due to its receipt of effluent from the Site. The Seymour Site Trust Fund shall also pay the technical consulting fees (not to exceed \$5,000 annually) incurred by the City in regard to effluent from the Site received by the POTW.

31. Air Emissions Control for Groundwater Treatment System.

a. Standards. Air emissions from the groundwater treatment system, in combination with air emissions from the soil vapor extraction system, shall not exceed a 1×10^{-6} excess lifetime cancer risk level or a chronic health index (HI) of 1 at the Nearest Receptor. These calculations shall be performed in accordance with the requirements set forth in paragraph 17 d. and e. of this Decree. Compliance with these standards may require treatment of the extracted vapor.

b. Plans. The plans for the groundwater treatment system required to be submitted pursuant to this Section or the RAP shall demonstrate that emissions from the system will comply with the standards referred to in subparagraph a., and that monitoring will be performed in accordance with subparagraph c. below.

c. Monitoring. Settling Defendants shall monitor the performance of and emissions from the groundwater treatment system, in accordance with the RAP and plans approved pursuant to the RAP.

d. Corrective Action. In the event that monitoring shows that air emissions from the groundwater treatment system have exceeded or are exceeding the standards referred to in subparagraph a., Settling Defendants shall promptly notify EPA and shall submit a plan for corrective action to EPA within 10 days of receipt of notice from EPA. Upon approval, Settling Defendants shall implement such plan as expeditiously as practicable. If required by EPA, operation of the system shall cease immediately.

SECTION IX

SOIL VAPOR EXTRACTION SYSTEM AND ENHANCED BIODEGRADATION

32. The Settling Defendants shall, in accordance with this Section, all other provisions of this Decree, and the RAP, design, construct, operate and maintain a soil vapor extraction system and provide enhancement of biodegradation to reduce the

volume, toxicity or mobility of soil contaminants at the Seymour Site.

33. Description

a. Soil Vapor Extraction System. The soil vapor extraction system shall consist of a network of pipes laid horizontally into the soil at the Seymour Site, for the purpose of stripping volatile organic contaminants from the soil. A more detailed description is set forth in the RAP.

b. Enhanced Biodegradation. Enhanced biodegradation shall consist of the placement into the soil at the Seymour Site of nutrients that will enhance the rate of biodegradation of organic contaminants in the soil, as specified in the RAP.

34. Performance Standards for Soil Vapor Extraction.

The soil vapor extraction system shall be designed in accordance with the RAP, and shall be operated to optimize the extraction efficiency of the system, consistent with the provisions of the RAP. Settling Defendants shall not be required to modify the soil vapor extraction provisions of the RAP respecting equipment or structures underlying the cap after the cap is in place.

35. Schedule for Design, Construction, Operation and Maintenance.

a. Submission of Plans. Settling Defendants shall submit for EPA's approval detailed work plans, in accordance with this Decree and the RAP, for the design, construction, operation, maintenance, monitoring and closure of

the soil vapor extraction system and enhancement of biodegradation, in accordance with the schedule set forth in or approved pursuant to Section 7 of the RAP. The plans shall include design calculations, specifications for construction, a sampling plan, a health and safety plan, an operation and maintenance plan, a Quality Assurance Project Plan, and procedures for dismantling or sealing and abandoning the system, as appropriate, upon termination of the project.

b. Construction and Operation. Construction and operation of the soil vapor extraction system and enhanced biodegradation shall commence and be completed in accordance with the schedule set forth in or approved pursuant to the RAP.

36. Operation and Maintenance.

a. Operation and Maintenance. The soil vapor extraction system shall be operated and maintained for so long as operation is required pursuant to the RAP.

b. Monitoring. Settling Defendants shall monitor the performance of the soil vapor extraction system and enhanced biodegradation as required in the RAP and in paragraph 37.c below.

37. Air Emissions Control for Soil Vapor Extraction System.

a. Standards. Air emissions from the soil vapor extraction system, in combination with air emissions from the groundwater treatment system, shall not exceed a 1×10^{-6} excess lifetime cancer risk level or a chronic health index (HI) of 1 at

the Nearest Receptor. These calculations shall be performed in accordance with the requirements set forth in paragraph 17 d. and e. of this Decree. If the soil vapor extraction system is still operating at the time that operation of the groundwater extraction system is terminated, the cumulative excess lifetime cancer risk from both air and groundwater shall not exceed 1×10^{-6} at the Nearest Receptor. Compliance with these standards may require treatment of the extracted vapor.

b. Plans. The plans for the soil vapor extraction system required to be submitted pursuant to this Section or the RAP shall demonstrate that emissions from the system will comply with the standards referred to in subparagraph a., and that monitoring will be performed in accordance with subparagraph c. below.

c. Monitoring. Settling Defendants shall monitor the performance of and emissions from the soil vapor extraction system, in accordance with the RAP and plans approved pursuant to the RAP.

d. Corrective Action. In the event that monitoring shows that air emissions from the soil vapor extraction system have exceeded or are exceeding the standards referred to in subparagraph a., Settling Defendants shall promptly notify EPA and shall submit a plan for corrective action to EPA within 10 days of receipt of notice from EPA. Upon approval, Settling Defendants shall implement such plan as

expeditiously as practicable. If required by EPA, operation of the system shall cease immediately.

SECTION X

SEDIMENT REMOVAL, BUILDING DEMOLITION, WASTE MATERIALS DISPOSAL

38. Sediment Excavation. The Settling Defendants shall excavate sediments to a depth of one (1) foot from the Northwest Ditch, in accordance with the provisions of the RAP. Such sediments shall be excavated immediately prior to the installation of the Cap provided for in Section XI hereof and shall be incorporated into the backfill beneath the Cap in accordance with the provisions of Section XI hereof and the RAP. Any temporary storage of the sediments that may be necessary shall be on-site and shall be in accordance with the RAP.

39. Building Demolition. Immediately prior to the installation of the soil vapor extraction system pursuant to Section IX hereof, the Settling Defendants shall demolish the buildings on the Seymour Site, in accordance with the RAP. The rubble from such demolition shall be stored temporarily on-site, as provided in the RAP, and shall be incorporated into the backfill beneath the Cap in accordance with the provisions of Section XI hereof and the RAP.

40. Waste Materials Disposal. The drums of drill cuttings and used safety equipment resulting from remedial activities taken at the Seymour Site shall be incorporated into

the backfill beneath the Cap in accordance with the provisions of Section XI and the RAP.

SECTION XI

MULTI-MEDIA CAP

41. The Settling Defendants shall design, construct and maintain a multi-media Cap over the Seymour Site in accordance with this Section, all other provisions of this Decree, and the RAP.

42. Description. The Cap shall consist of multiple layers of soil backfill, geotextile, clay, drainage materials, synthetic liners, and other materials, as specified in the RAP. The Cap shall incorporate, as fill material, rubble from the demolition of buildings on the Site, sediments, and waste materials, as provided in Section X hereof.

43. Performance Standards. The Cap shall meet the following design requirements of 40 CFR 264.310.a.: 1) provide long-term minimization of migration of liquids through the soil at the site; 2) function with minimum maintenance; 3) promote drainage and minimize erosion or abrasion of the cover; 4) accommodate settling and subsidence so that the cover's integrity is maintained; and 5) have a permeability less than or equal to the natural subsoils present. The Cap shall be designed and maintained to provide protection against surface exposure of humans or animal or plant life to the soil contaminants, and to provide protection against wind dispersal or surface run-off from carrying soil contaminants off the Site. The full protective

thickness of the Cap shall cover the entire existing fenced area of the Site, shown as Area A on Exhibit 2 hereto, and shall extend beyond the existing fenced area as necessary to secure the cap to existing grade, in accordance with the RAP.

44. Schedule for Design and Construction.

a. Submission of Plans. Settling Defendants shall submit for EPA's approval technical plans for the design, construction and maintenance of the Cap, in accordance with this Section and the RAP, on the schedule set forth in or approved pursuant to Section 7 of the RAP.

b. Construction. Construction of the Cap shall commence and be completed in accordance with the schedule set forth in or approved pursuant to Section 7 of the RAP.

45. Maintenance. The City shall have primary responsibility for performing routine cap maintenance services, including without limitation, inspecting the cap, mowing the cover vegetation, and replacing cover soil lost through erosion. In the event that the City experiences problems with maintenance, including without limitation, erosion problems, it shall promptly notify the other Settling Defendants of such problems. If the City fails to discharge its obligations hereunder, the other Settling Defendants shall be secondarily responsible for such maintenance services. The City shall, nevertheless, remain responsible to the other Settling Defendants for the reasonable costs of such services. In the event that the cap needs to be replaced at any time, the City shall be responsible for 2% of all

related costs. Other provisions regarding cap maintenance are set forth in Section 5.3 of the RAP.

46. Duration. The Cap shall be maintained until it is demonstrated to EPA's satisfaction that further maintenance is not necessary to provide protection against surface exposure of humans or animal or plant life to the soil contaminants, to provide protection against wind dispersal or surface run-off from carrying soil contaminants off the Site, and to prevent migration of contaminants beyond the boundaries of the Site in excess of the Cleanup Standards set forth in paragraph 17 of this Decree.

SECTION XII

INTERIM SURFACE RUN-OFF CONTROLS

47. The Settling Defendants shall design, construct and maintain, in accordance with this Decree and the RAP, a system of surface run-on and run-off controls at the Seymour Site as an interim measure prior to installation of the cap (these controls are generally referred to hereinafter as the "surface run-off controls").

48. Description. The surface run-off controls, described in further detail in the RAP, shall include at a minimum the following components:

- a. Strengthening of existing berms around the Site, which eventually will be incorporated into the backfill under the Cap; and
- b. Site grading to cause surface runoff to be collected for any necessary treatment.

49. Performance Standards. The interim surface run-off controls shall be designed and maintained in a manner which will minimize surface water run-on to the Site in order to reduce potential leaching of contaminants from the soil into the groundwater, and to minimize run-off from the Site. Surface run-off shall be collected so that it can be treated if necessary.

50. Schedule for Design and Construction.

a. Submission of plans. Settling Defendants shall submit for EPA's approval technical plans for the design, construction and maintenance of the surface run-off controls, in accordance with this Decree and the RAP, on the schedule set forth in or approved pursuant to Section 7 of the RAP.

b. Construction. Settling Defendants shall commence and complete construction of the surface run-off controls in accordance with the schedule set forth in or approved pursuant to the RAP.

51. Maintenance; Duration. The surface run-off controls shall be maintained, in accordance with the provisions of this Decree and the RAP, until the Cap provided for in Section XI above is installed. The controls shall be maintained and repaired as necessary to meet the Performance Standards set forth in paragraph 49 above and other requirements of this Decree and the RAP.

52. Monitoring. Settling Defendants shall monitor the water quality of collected surface run-off on a regular basis, as specified in a plan to be submitted by Settling Defendants and

approved by EPA pursuant to the RAP, to determine the treatment or disposal requirements for the run-off. Settling Defendants shall inspect the surface run-off controls on a regular basis.

SECTION XIII

WELL SEALING AND ABANDONMENT

53. Consent of Owners. Within 90 days of the entry of this Decree, the Settling Defendants shall complete a survey of all residences and businesses in the Snyder Acres area, as defined on Exhibit 6 hereto, to determine if the owners of such businesses and residences who have alternate water supplies desire to have any private well on their property sealed. The Settling Defendants shall provide to EPA and IDEM a copy of the survey conducted, including the names and addresses of all persons contacted and their decisions with regard to this matter, and copies of any agreements made pursuant to this paragraph.

54. Sealing and Abandonment. Within 90 days of completing the survey provided for in the preceding paragraph, the Settling Defendants shall seal and abandon, in accordance with State law, all wells for which they have obtained the owner's permission.

55. Submission of Plans. Within 90 days of entry of this Decree, Settling Defendants shall submit for EPA's and IDEM's approval technical plans for well sealing and abandonment, in accordance with this Decree and the RAP.

SECTION XIV

LAND RESTRICTIONS

56. Fence. The Settling Defendants shall install a security fence which surrounds and encloses the cap, the soil vapor extraction system, a perimeter service road around the cap and the extraction and monitoring wells that are located at or adjacent to the site boundaries. The Settling Defendants shall also install a security fence around the groundwater treatment facility. Warning signs shall be installed prominently in appropriate places on the outside of the security fence(s). The fences and signs shall be installed in compliance with the specifications of the RAP.

57. Freeman Field Industrial Park Wells. The City of Seymour and its Board of Aviation Commissioners (hereinafter, the "City") agree to prohibit the installation or operation of any wells on the City's property adjacent to the Seymour Site, known as Freeman Field Industrial Park, that may interfere with the groundwater pumping or other remedial actions at the Seymour Site or cause human exposure to contaminants from the Site, until the post-termination groundwater monitoring required under this Consent Decree is completed. Any and all operation shall be prohibited that could interfere with the Seymour Site remedial action, including but not limited to changes in plume stabilization or groundwater flow directions, a significant increase in flow rate from the shallow to the deep aquifer in the vicinity of the Site or reduction of the potential production

capacity of wells that are installed as part of the remedial action. Upon completion of a study and determination by EPA of the level of operation of the City's existing or future wells that could cause such interference, if any, the City agrees to execute and file deed restriction(s) setting forth such restrictions. In the interim period before such deed restrictions are executed, the City agrees not to increase the average pumping rates of its existing wells significantly or to install new wells without prior approval by EPA. Any dispute arising under this paragraph shall be resolved in accordance with Section XXI of this Decree.

58. Seymour Site. The City has executed, and shall file within 15 days of the entry of this Consent Decree, the deed restrictions attached as Exhibit 7 hereto, prohibiting any consumptive or other use of the groundwater underlying the Seymour Site that could cause exposure to humans or animals, prohibiting any residential or commercial use or any other use that would allow continued presence of humans at the Seymour Site, and prohibiting installation, construction or use of any buildings, wells, pipes, roads, ditches or any other structures at the Seymour Site except as approved by EPA as consistent with this Decree and the RAP. The prohibition on the use of groundwater under the Site shall continue in perpetuity; the other restrictions shall remain in full force and effect so long as maintenance of the Cap pursuant to Section XI or any other remedial action work is required hereunder.

59. Land Use on City Property Adjacent to Seymour Site. The City has executed, and shall file within 15 days of entry of this Consent Decree, deed restrictions attached as Exhibit 8 hereto prohibiting: 1) the use of the areas described therein in any manner that could cause exposure of humans or animals to contaminated groundwater in concentrations that present or may present a threat to health (i.e. concentrations above the Cleanup Standards set forth in paragraph 17 above); 2) the use of the areas described therein that could interfere with the remedial action for the Site as described in this Decree and the RAP; and 3) any residential, commercial or other use that would allow continued presence of humans. Restrictions 1 and 2 above shall remain in full force and effect until post-termination groundwater monitoring under paragraph 23 of this Decree is completed and this Consent Decree has been terminated. Restriction 3 above shall not apply after termination of this Consent Decree, except that during the post-termination groundwater monitoring period no use of groundwater beneath the areas described in Exhibit 8 shall occur without prior notice and opportunity to object as set forth in Exhibit 8. In any event, the Board of Aviation Commissioners may petition EPA to terminate this restriction after EPA has given its approval to discontinue air monitoring pursuant to Section 6.2.1.4 of the RAP. In the event that attainment of one or more Cleanup Standards at the Site boundaries is not achieved and a technical impracticability waiver is granted by EPA pursuant to paragraph 24 hereof, the

deed restrictions applicable to prevention of exposure of humans or animals to contaminated groundwater shall continue in perpetuity, unless otherwise agreed to by EPA.

60. Additional Restrictions on City Property. Upon request by the United States, the State, or the Settling Defendants, the City shall execute any additional easements, deed restrictions, land use limitations, or other enforceable instruments which are necessary to prevent exposure of humans or animals to contaminated groundwater in concentrations that present or may present a threat to health, to prevent interference with implementation of remedial action for the Seymour Site, or otherwise to ensure the proper performance of the requirements established under this Decree.

61. Private Properties. The Settling Defendants shall seek any additional easements, deed restrictions, land use limitations, or other enforceable instruments restricting private property use which are necessary to enable implementation of or to prevent interference with remedial action for the Seymour Site.

62. Filing. Within 15 days of the entry of this Decree, the City shall file a copy of the Decree with the Office of the Recorder of Jackson County (the "Recorder"). The City shall file the deed restrictions annexed as Exhibits 7 and 8 hereto with the Recorder within 15 days of the entry of this Decree, and shall file any additional instruments executed

pursuant to paragraphs 57 or 60 above within 5 business days of their execution.

63. Dispute Resolution. Any dispute that may arise with respect to compliance with the provisions of this Section or interpretation or enforcement of any easement, land use limitation, deed restriction or other instrument executed pursuant hereto shall be resolved by this Court pursuant to the dispute resolution provisions of Section XXI of this Decree.

SECTION XV

EPA PERIODIC REVIEW OF REMEDY TO ASSURE PROTECTION OF HUMAN HEALTH AND ENVIRONMENT

64. Pursuant to Section 121(c) of CERCLA, EPA shall review the remedial action taken at the Seymour Site at least every five (5) years following the date of entry of this Consent Decree to determine whether the remedy is adequately protecting human health and the environment.

65. Notwithstanding any other provision of this Consent Decree, if upon such review EPA determines that further action is appropriate, EPA may take or require such action as may be authorized under Sections 104 or 106 of CERCLA. Settling Defendants reserve any rights they may have to contest or defend against any such action.

66. Nothing in this Decree shall be construed to require Settling Defendants to implement any technology or technologies other than those of the types specified in this Decree unless EPA determines that the use of such technology is necessary to protect human health and the environment.

67. During the pendency of this Consent Decree, upon completion of each five-year review pursuant to the preceding paragraph, EPA shall notify the Settling Defendants and the Settling Federal Agencies of its determination.

SECTION XVI

QUALITY ASSURANCE

68. For any remedial action conducted pursuant to this Decree, the Settling Defendants shall use quality assurance, quality control, and chain of custody procedures in accordance with EPA's "Interim Guidelines and Specifications For Preparing Quality Assurance Project Plans" (QAM-005/80) or subsequent guidelines adopted by EPA. Settling Defendants shall comply with the quality assurance procedures and other requirements specified in the RAP.

69. The parties stipulate that all data collected in accordance with this Section, the RAP, and the QAPP shall be considered admissible in evidence for purposes of dispute resolution proceedings under Section XXI hereof or any other proceedings related to this Consent Decree.

70. The Settling Defendants shall use their best efforts to assure that EPA personnel or authorized representatives are permitted access to any laboratory utilized by the Settling Defendants in implementing this Consent Decree.

SECTION XVII

SITE ACCESS AND SAMPLING

71. Access to the Seymour Site and the City property identified on Exhibit 9 hereto is hereby granted by the City of Seymour and ordered by the Court for the benefit of the Trustee, the United States, the State, the Settling Defendants, and their representatives, contractors and agents, for the purposes of effectuating and monitoring all terms of this Consent Decree and performing the remedial action required hereunder. Within 15 days of the entry of this Decree, the City shall file the easement attached as Exhibit 9 with the Jackson County Recorder. Nothing herein shall limit EPA's or IDEM's rights of access under applicable laws.

72. The Settling Defendants shall make available to EPA and IDEM the results of all sampling, tests or other data generated by the Settling Defendants in connection with the implementation of this Consent Decree, and shall submit these results in progress reports as required by Section XVIII of this Decree. EPA and IDEM shall make available to the Settling Defendants, upon request, the results of sampling and/or tests or other data similarly generated by U.S. EPA or IDEM or their respective representatives, contractors or agents.

73. Upon request the parties shall allow split or duplicate samples of any samples collected in connection with the implementation of this Consent Decree. Notice shall be given at least fourteen (14) days in advance of any sample collection

activity. Nothing herein shall preclude any party from taking any additional samples.

SECTION XVIII

PROGRESS REPORTS; ANNUAL EVALUATION OF PERFORMANCE

74. Quarterly Progress Reports. The Settling Defendants shall provide to EPA and the IDEM written progress reports on a quarterly basis which:

- (1) describe the status and progress to date of the remedial action work;
- (2) describe the remedial action work planned for the next reporting period;
- (3) describe any significant problems affecting performance of the remedial action work encountered during the reporting period or anticipated during the next reporting period;
- (4) describe any actions taken or to be taken to avoid, rectify, or minimize such problems;
- (5) list and graphically represent all proposed and actual completion dates for each uncompleted portion, element, or task of the remedial action work, explaining any deviation from previously approved timetables;
- (6) include all monitoring and other technical data generated or received by the

Contractors pertaining to the remedial action work, including but not limited to all analytical results, reports, logs, well construction details, and groundwater surface elevation information;

(7) list any changes in key project personnel; and

(8) identify and summarize significant contacts with the public or local or state governments.

During the post-termination monitoring period, reports may be submitted on an annual basis, promptly following the annual monitoring.

75. Annual Evaluation of Performance.

a. Annually following the entry of this Decree, Settling Defendants shall submit to EPA a report evaluating the performance of the remedial action taken under the Decree during the past year and to date, including an analysis of the progress to date and prospects for future progress of the groundwater extraction system and other components of the remedy in meeting the Cleanup or Performance Standards or other requirements of the Decree and the RAP. If, upon review of such report, EPA concludes that the remedial action implemented is not meeting or making reasonable progress in meeting the Cleanup or Performance Standards or other requirements of the Decree or the RAP, EPA may

request that Settling Defendants modify the system(s) installed or actions taken to improve their ability to meet such requirements. If a modification of the RAP is appropriate, it shall be effected in accordance with paragraph 11 of this Decree.

b. This report shall not be required after operation of the soil vapor extraction system and the groundwater extraction system is terminated, except in the event of any re-starts of the groundwater extraction system during the post-termination monitoring period.

SECTION XIX

EPA REMEDIAL PROJECT MANAGER AND ON-SCENE COORDINATOR; PROJECT COORDINATORS

76. EPA shall designate a Remedial Project Manager ("RPM") and/or an On-Scene Coordinator ("OSC") for the Seymour Site remedial action. Unless otherwise specified, the RPM shall have the powers of the OSC. The IDEM shall designate a State Project Coordinator for the Seymour Site remedial action. EPA and IDEM also may designate other representatives, including employees, contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree. The Settling Defendants shall designate a Project Coordinator who shall have primary responsibility on behalf of the Settling Defendants for implementation of the remedial action at the Seymour Site and for communication with the RPM/OSC and the State Project Coordinator. The City shall designate a Project Coordinator for purposes of notification regarding matters affecting the City under this Consent Decree.

LIST OF EXHIBITS

- | | |
|------------|---|
| Exhibit 1 | RECORD OF DECISION ("ROD") |
| Exhibit 2 | SEYMOUR SITE MAP AND SURVEY |
| Exhibit 3 | TRUST AGREEMENT FOR SEYMOUR SITE TRUST FUND |
| Exhibit 4 | APPORTIONMENT AMONG SETTLING DEFENDANTS AND
SETTLING FEDERAL AGENCIES |
| Exhibit 5 | REMEDIAL ACTION PLAN ("RAP") |
| Exhibit 6 | SNYDE ACRES AREA DEFINITION (for purposes of well
survey under Section XIII) |
| Exhibit 7 | DEED RESTRICTIONS ON USE OF SEYMOUR SITE |
| Exhibit 8 | DEED RESTRICTIONS ON USE OF CITY PROPERTY ADJACENT
TO SEYMOUR SITE |
| Exhibit 9 | EASEMENT FOR ACCESS TO SEYMOUR SITE AND CITY
PROPERTY ADJACENT TO SEYMOUR SITE |
| Exhibit 10 | RESERVED CLAIMS |
| Exhibit 11 | PREMIUM SETTLING DEFENDANTS |

77. The RPM/OSC designated by EPA shall have the authority and powers provided pursuant to the National Contingency Plan, 40 C.F.R. Part 300. The RPM/OSC may order the termination of any remedial action work or any other activity at the site which in the opinion of the RPM/OSC may or does present or contribute to an endangerment to public health, welfare or the environment, or which the RPM/OSC determines is inconsistent with the RAP or the work plans approved thereunder. If the RPM/OSC orders the termination of any activity, such activity shall immediately cease. If the RPM/OSC orders the termination of an activity, the RPM/OSC then may require implementation or performance of the activity in accordance with this Decree and the RAP. If the parties disagree as to any requirement or instructions directed by the RPM/OSC, the parties may submit their dispute to the Court in accordance with Section XXI of this Decree. In no event shall the RPM/OSC have the authority to modify the provisions of this Decree or the RAP, but nothing herein shall prevent the RPM/OSC from taking, ordering or prohibiting action as described above.

78. To the maximum extent practicable, except as specifically provided otherwise in this Consent Decree, communications between Settling Defendants, including the City, IDEM and EPA concerning the implementation of this Consent Decree shall be made between the representatives designated pursuant to paragraph 76.

79. Within twenty (20) calendar days of the entry of this Consent Decree, the Settling Defendants, including the City, IDEM and EPA shall notify each other, in writing, of the name, address and telephone number of the individuals designated pursuant to the preceding paragraphs and their alternates. In any event that the identity of any such person changes, the party shall notify the other parties within twenty (20) calendar days.

SECTION XX

FORCE MAJEURE

80. "Force Majeure" for purposes of this Consent Decree is defined as any event arising from causes beyond the control of the Settling Defendants which delays or prevents the performance of any obligation under this Consent Decree. "Force Majeure" shall not include a) increased costs or expenses, b) technical inability to meet the Cleanup Standards set forth in paragraph 17 hereof, except as specifically provided in paragraph 24, or c) failure to apply for any required permits or approvals or to provide all information required therefor in a timely manner.

81. When circumstances occur which may delay the completion of any phase of the remedial action work as a result of a "force majeure" event, the Trustee or the Project Coordinator shall promptly notify the RPM by telephone, or in the event of the RPM's unavailability, the Director of the Waste Management Division of EPA Region V. In addition, within thirty (30) days of the occurrence of such circumstances, the Trustee or

the Project Coordinator shall give EPA a written statement of the reason(s) therefor, the anticipated duration of the delay, the measures taken and to be taken to prevent or minimize the delay, and the timetable for implementation of such measures. Failure to give notice in accordance with this paragraph shall constitute a waiver of any claims of force majeure by the Settling Defendants.

82. If EPA agrees that a delay is or was attributable to a "force majeure" event, EPA shall promptly notify the Trustee and the Project Coordinator in writing and specify the additional time that is allowed, as necessary for the completion of the specific phase of work and/or any succeeding phase of the work affected by such delay.

SECTION XXI

DISPUTE RESOLUTION

83. Informal Discussions. The parties to this Consent Decree shall attempt expeditiously to resolve any disagreements that arise under this Consent Decree through informal discussions.

84. Motion for Dispute Resolution.

a. In the event that any dispute arising under this Consent Decree is not resolved expeditiously through informal means, any party desiring dispute resolution under this Section, or the Trustee, may serve and file a Motion for Dispute Resolution with the Court. In the case of an objection by Settling Defendants to a decision or determination by EPA or IDEM

(or the City, where provided in Section VIII hereof) the Settling Defendants shall serve and file such motion within 60 days of receipt of the decision or determination complained of or, in the case of a withholding of approval or certification, within 120 days of the request for approval or certification or such lesser time as may be required to prevent a delay or interruption in actions required under this Decree.

b. Any party seeking dispute resolution pursuant to subparagraph a. shall include in its Motion a written statement of the issues in dispute, a recitation of the relevant facts and evidence upon which the dispute is based, and where appropriate a citation to the documentation in the administrative record compiled pursuant to paragraph 85 below upon which such party relies.

85. Administrative Record.

a. Maintenance. EPA shall maintain an administrative record of each decision or determination by EPA provided for in this Consent Decree and the RAP. All parties shall be responsible for submitting for inclusion in the administrative record all information that they wish to have considered by the EPA decision-maker, prior to the time of decision. EPA shall include in the record a statement and explanation of the decision or determination, and copies of all documents considered by the decision-maker. The record shall be available for review and copying by all parties upon reasonable notice.

b. Certification. The custodian of the record maintained pursuant to subparagraph a. shall certify and submit the administrative record to the Court upon the filing of a Motion for Dispute Resolution by EPA or, in the case of a motion challenging EPA's decision, upon the filing of the agency's response to the Motion for Dispute Resolution.

86. Judicial Review.

a. EPA Determinations Respecting Remedial Action.

Any decision or determination by EPA pertaining to the selection or adequacy of response action(s) taken under this Consent Decree will be reviewed by the Court on the basis of the administrative record, and EPA's decision will be upheld by the Court unless it is arbitrary and capricious or otherwise not in accordance with law.

b. Other Issues. Except as specified in paragraph a. above or otherwise in this Decree, this Consent Decree does not establish burdens of proof or standards of any kind for judicial review of disputes between the parties.

c. Applicable Law. Notwithstanding the provisions in paragraph 86.a. above, if Congress or a court of controlling jurisdiction establishes or provides for a different procedure or standard of review with respect to EPA decision-making pertaining to the selection or adequacy of response action(s), either party may move the Court to modify paragraph 86.a. to conform to such procedure or standard of review.

SECTION XXII

RETENTION AND AVAILABILITY OF INFORMATION

87. Retention of Records. The Settling Defendants shall maintain records of all design, construction, operation, maintenance, monitoring and other activities associated with the implementation of remedial action work under this Decree, including all operating problems, repairs or modifications to the systems provided for herein. The Settling Defendants and the Trustee shall retain and maintain all data, records and documents in their possession, custody, or control relating to their liability under the claims for relief alleged in the United States' Second Amended Complaint in this action or relating to the performance of remedial action work (including monitoring) pursuant to this Consent Decree. Upon request, all non-privileged documents shall be made available to EPA, the U.S. Department of Justice or the State. Such records shall be maintained until EPA certifies, pursuant to Section XXXIV hereof, that the remedial action for the Seymour Site has been completed, at which time Settling Defendants shall submit a proposal to EPA and the Department of Justice for approval regarding continued maintenance of records.

88. Public Information. The United States and the State may make public any information described in the preceding paragraph or any other information that is submitted to them in connection with the implementation of this Consent Decree,

subject to the confidentiality provisions of the following paragraph.

89. Confidentiality.

a. Claim. The Settling Defendants may assert business confidentiality claims covering all or part of the information provided in connection with this Consent Decree to the extent permitted by, and in accordance with, Section 104(e)(7) of CERCLA (42 U.S.C. §9604(e)(7)), 40 CFR 2.203(b), and applicable State law (with respect to information submitted to the State). If no such claim accompanies the information when it is submitted to the United States or the State, the public may be given access to such information without further notice to Settling Defendants.

b. Determination. Information for which confidentiality is requested pursuant to subparagraph a. and which is determined by EPA to be confidential will be afforded the protection provided by law. Information determined by the State to be entitled to confidential treatment under State law shall be afforded protection as provided under Indiana law. EPA and the State shall provide Settling Defendants with any notice required by law of any information determined not to be confidential.

SECTION XIII

REIMBURSEMENT OF GOVERNMENT COSTS;
DISTRIBUTION OF 1983 PRO-RATA SETTLEMENT TRUST FUND

90. Distribution of Balance of 1983 Pro Rata Settlement Trust Fund. Upon entry of this Consent Decree, the

Clerk of the Court shall cease reinvestment of the monies in the 1983 Pro-Rata Settlement Trust Fund (the "1983 Fund") in United States Treasury Bills, as previously directed by the District Court's Order of August 11, 1983 (as amended). Existing Treasury Bills shall be allowed to mature and their proceeds deposited in the passbook bank account established for the 1983 Fund. Upon the deposit of the proceeds of all outstanding Treasury Bills in the passbook account, the Clerk shall cause the account to be closed out and shall pay and deliver the proceeds to the Trustee for the Seymour Site Trust Fund established by the Settling Defendants pursuant to Section IV of this Decree, to be used for the remedial action work and payment of response costs pursuant to this Decree.

91. Past Costs. In settlement of the United States' claim for response costs incurred prior to entry of this Decree, within 45 days of the entry of this Consent Decree, the Settling Defendants shall pay and deliver \$6.5 million to the United States. Such payment shall be made as follows:

a. Five Million, Eight Hundred Thirty Seven Thousand, One Hundred Sixty Two Dollars (\$5,837,162.00) in a

check payable to the order of the "EPA Hazardous Substances Superfund," ~~to be mailed to the U.S.~~ 12/1/88
X/E

Environmental Protection Agency, Region 5,
~~Environmental Protection Agency, Superfund, P.O. Box~~
Attn: Superfund Accounting, P. O. Box 70753,
~~37100M, Pittsburgh, Pennsylvania 15251, and~~
Chicago, Illinois 60673; and

b. Six Hundred Sixty Two Thousand, Eight Hundred Thirty Eight Dollars (\$662,838.00) in a check to the

order of the "United States Coast Guard," to be mailed to Commandant (G-FAC), U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, D.C. 20593-0001.

Notice of such payments and copies of the checks shall be sent to the following:

Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Seymour Site Remedial Project
Manager
U.S. Environmental Protection
Agency, Region V
Waste Management Division
230 So. Dearborn Street
Chicago, Illinois 60604

Ivery Jacobs (PM 226)
U.S. Environmental Protection
Agency
Financial Management Division
401 M Street, S.W.
Washington, D.C. 20460

Office of Regional Counsel
U.S. Environmental Protection
Agency, Region V
115 W. Jackson Street
Chicago, Illinois 60604

Commandant (G-LCL)
U.S. Coast Guard Headquarters
2100 Second St. S.W.
Room 3414
Washington, D.C. 20593-0001

92. Future Costs.

a. Oversight. The Settling Defendants and the Settling Federal Agencies shall pay costs incurred by the United States and the State not inconsistent with the NCP after the

entry of this Consent Decree in connection with the oversight and implementation of this Decree. Such payments shall be made through the Trust Fund established pursuant to Section IV hereof, and shall be in accordance with the provisions of paragraphs 5 and 8, including the provisions for payment by each party of amounts in the relative proportions shown on Exhibit 4, subject to proportional adjustment by the Trustee to cover any shortfalls resulting from insufficient funds or failure by one or more parties to pay.

b. Reservation of Rights. Settling Defendants reserve any rights they may have under the law to contest whether the specific costs actually incurred by the United States and the State are recoverable under Section 107 of CERCLA, and the amount of such costs. The United States reserves the right to seek recovery of any costs it incurs in connection with enforcement of this Decree or dispute resolution hereunder.

c. Method of Payment. Payments shall be made by the Trustee on an annual basis within 90 days of the submission of an itemized cost statement and supporting documentation by the United States. Payments to the United States shall be made as specified in paragraph 91 above.

93. Interest. Interest shall accrue on any delayed payment of costs due under this Section. The rate of interest shall be the annual rate provided for in Section 107(a) of CERCLA, 42 U.S.C. §9607(a), plus 2%. Such interest shall accrue and be compounded on a daily basis.

SECTION XXIV

STIPULATED PENALTIES

94. Penalties. The Settling Defendants shall be liable to the United States for payment of stipulated penalties for each of the following violations of this Consent Decree, unless the violation is excused pursuant to Section XX above or waived by EPA:

a. Late Plans or Reports. For each day that the Settling Defendants fail to submit a plan or report (other than the plans described in subparagraph b. below or the progress and financial reports specified in subparagraph e. below), in accordance with the requirements of this Decree, or the RAP:

Days 1 - 7	\$100 per day
Days 8 - 30	\$500 per day
After 30 days	\$1000 per day;

b. Delayed Remedial Action Work. For each day that the following remedial action work is delayed, the sum of \$500 for the first 7 days, \$2500 for the 8th through the 30th days, \$5000 for the 31st through the 60th days, and \$10,000 for each day after the 60th day:

Submission of plans for the design, construction and operation of the groundwater extraction and treatment systems, for which the schedule is set forth in Sections 7.2.1., 7.2.2, and 7.2.3 of the RAP

Completion of construction and start-up of the groundwater extraction and treatment system, for which the schedule is set forth in Section 7.2.4 of the RAP

Submission of plans for design, construction and operation of soil vapor extraction system, for which

the schedule is set forth in Sections 7.1.1, 7.1.5, 7.1.7 and 7.1.8 of the RAP

Completion of cap, for which the schedule is set forth in Section 7.1.12 of the RAP

Penalties for the untimely submission of plans for the design, construction and operation of the groundwater extraction and treatment systems will be forgiven if Settling Defendants complete the construction and start-up of the groundwater extraction and treatment system within 20 months of the lodging of this Decree or 26 months in the event that EPA agrees, pursuant to Section 7.2.4 of the RAP, that start-up may occur 18 months after design approval. Any penalties for the untimely submission of such plans shall be collected as specified in paragraph 96 below, but shall be paid into an interest-bearing escrow account and shall remain there until the deadline set forth above. If such deadline is missed, the balance of the escrow account shall be paid into the Hazardous Substances Superfund, as provided in paragraphs 91 and 96. If such deadline is met, the balance of the escrow account shall be paid to the Trustee on behalf of the Settling Defendants.

c. Shut-off of Systems without Approval. For each day that the Plume Stabilization System, the groundwater extraction and treatment system, or the soil vapor extraction system is shut off without prior EPA approval or good faith justification, the sum of \$10,000.

d. Late Notice or Plan Under Paragraphs 19 b., 31.d., or 37 d. For each day or part thereof that the Settling

Defendants fail to notify EPA or IDEM, to submit a plan to EPA and IDEM in accordance with the requirements of paragraph 19 b., 31.d., or 37 d. of this Decree, or to otherwise comply with the requirements of those paragraphs, the sum of \$12,000;

e. Late Progress or Financial Reports. For each day that the Settling Defendants fail to submit a progress report pursuant to Paragraph 74 or that the Trustee fails to submit a financial report pursuant to Paragraph 7:

Days 1 - 5	0
Days 6 - 30	\$250
After 30 days	\$500

f. Interest. Interest shall accrue on delayed payment of stipulated penalties pursuant to this Section. The rate of interest shall be the annual rate provided for in Section 107(a) of CERCLA, 42 U.S.C. §9607(a), plus 2%. Such interest shall accrue and be compounded on a daily basis.

g. \$25,000 Per Day Cap. Stipulated penalties due under this paragraph shall not exceed a total of \$25,000 per day.

95. Accrual. All penalties begin to accrue on the day following the day on which complete performance is due or on the date a violation occurs, and continue to accrue until performance is completed or the violation is corrected. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Decree.

96. Payment. All penalties or interest due pursuant to the preceding paragraph shall be due and payable to the United

States within ninety (90) days of receipt of written notification from EPA assessing the penalties or interest. Such notice shall describe the non-compliance and specify the amount of the penalties due. Payment shall be made to the Hazardous Substances Superfund as provided in paragraph 91 above, and shall contain the Trustee's complete and correct address, the site name, and the civil action number.

97. Disputes.

a. Settling Defendants may dispute the United States' right to the stipulated penalties specified in the notice given pursuant to the preceding paragraph, in accordance with the dispute resolution procedures of Section XXI hereof.

b. Penalties shall accrue, with interest, but need not be paid during the dispute resolution period. If the Court becomes involved in the resolution of the dispute, the period of dispute shall end upon the rendering of a decision by the Court regardless of whether any party appeals such decision. In the event of an appeal, the penalty amount in dispute shall be placed into an escrow account until a decision has been rendered by the final court of appeal. If the Settling Defendants prevail upon resolution, no penalties shall be payable. If the Settling Defendants do not prevail upon resolution, the United States has the right to collect all penalties which accrued prior to and during the period of dispute. The Settling Defendants shall, however, have the right to petition the Court for a finding that the Settling Defendants' position regarding the dispute had

substantial support in law, fact and/or expert opinion (as applicable) and reasonably could have been expected to prevail, in light of the applicable standard of judicial review, and that Settling Defendants sought dispute resolution at the earliest practicable time and took all other appropriate steps to avoid any delay in remedial action work as a result of the dispute. If the Court so finds, the Court may reduce the stipulated penalties as appropriate, but such reduction shall be no more than fifty percent (50%). The 50% limitation on the reduction shall not apply in the case of a legitimate dispute concerning substantial work in addition to that provided for in the Decree or the RAP that is requested by EPA after entry of the Decree and opposed by Settling Defendants. Settling Defendants shall have the burden of proof and persuasion on any petition for reduction of stipulated penalties submitted hereunder.

98. Civil Penalties; Election of Remedies. Nothing herein shall preclude EPA from assessing civil penalties or bringing an action in this Court pursuant to Section 109 of CERCLA for any failure or refusal to comply with the provisions of this Consent Decree. The United States may elect, in its sole discretion, whether to seek stipulated penalties under this Section or to seek civil penalties under Section 109 of CERCLA for a particular violation of the Consent Decree, but agrees not to seek both types of penalties for the same violation.

SECTION XXV

COVENANT NOT TO SUE

99. Covenant. Except as specifically provided in paragraph 101, the United States and the State covenant not to sue the Settling Defendants and Settling Federal Agencies for any and all civil liability to the United States or the State for causes of action arising under Section 106 and 107 of CERCLA, Section 7003 of RCRA, Section 311 of the Clean Water Act, or state statutory or common law, relating to the Seymour Site.

100. Future Liability. With respect to future liability, this Covenant Not to Sue shall take effect upon certification by EPA of the completion of the remedial action pursuant to paragraph 125 hereof.

101. Reservations. Notwithstanding any other provision in this Consent Decree, the United States reserves the right to institute proceedings in this action or in a new action (1) seeking to compel the Settling Defendants to perform additional response work at the Site under Section 106 of CERCLA, Section 7003 of RCRA or other applicable law, or (2) seeking to reimburse the United States for response costs under Section 107 of CERCLA or other applicable law, if:

a. for proceedings prior to EPA certification of completion of the remedial action:

(i) conditions at the Site, previously unknown to the United States, are discovered after the entry of this Consent Decree , or

(ii) information is received, in whole or in part, after the entry of this Consent Decree, and these previously unknown conditions or this information indicates that the remedial action is not protective of human health and the environment;

b. for proceedings subsequent to EPA certification of completion of the remedial action,

(i) conditions at the Site, previously unknown to the United States, are discovered after the certification of completion by EPA , or

(ii) information is received, in whole or in part, after the certification of completion by EPA, and these previously unknown conditions or this information indicates that the remedial action is not protective of human health and the environment.

102. Notwithstanding any other provision in this Consent Decree, the Covenant Not to Sue in Paragraph 99 shall not relieve the Settling Defendants of their obligation to meet and maintain compliance with the requirements set forth in this Consent Decree, the ROD or the RAP and work plans approved thereunder.

103.a. Notwithstanding any provision of law or any other provision in this Consent Decree, the Covenant Not to Sue in Paragraph 99 shall not bar or release any claim for damages or contribution for those claims and causes of action listed in Exhibit 10 hereto.

b. It is not the intention of the parties that this Section shall operate as a release of any party to this litigation. In addition, this Covenant Not to Sue shall not be applicable to any Defendant who does not make all payments required by this Consent Decree or any other person or entity not a party to this Consent Decree. The United States expressly reserves the right to sue any person other than the Settling Defendants for any unrecovered response costs.

c. Except as provided in paragraph 103(a) above, the Settling Defendants and the Settling Federal Agencies, by entering into their judicially approved settlement set forth in this Consent Decree shall, as provided by 42 U.S.C. §9613(f)(2), not be liable for claims for contribution regarding matters addressed in this Consent Decree.

SECTION XXVI

ASSUMPTION OF FUTURE LIABILITY FOR CERTAIN SETTLING DEFENDANTS

104. Assumption of Liability. Except for those claims identified on Exhibit 10 hereto, the Settling Defendants and those Settling Defendants listed on Exhibit 11 ("Premium Settling Defendants") and the Premium Settling Federal Agencies hereby covenant not to sue each other as to all common law claims and state and federal claims and causes of action under laws or regulations, including subsequently enacted laws or regulations, administered and enforced by the United States or the State, and claims for injury to natural resources under the trusteeship of U.S. Department of the Interior or the State, which have been, or

could have been asserted against each other as of the effective date of this Consent Decree, arising out of all matters which were raised, or could have been raised, relating to or arising from the Seymour Site. In addition, the Settling Defendants (excluding the Premium Settling Defendants) agree to assume all liability to the United States or the State that could at any time be imposed upon any of the Premium Settling Defendants or Premium Settling Federal Agencies as to all future obligations or liability under this Consent Decree, including without limitation, any obligation to make additional contributions to the Seymour Site Trust Fund, or to perform or finance any additional remedial action at the Seymour Site not contemplated by this Consent Decree or the RAP. This paragraph shall not be construed as a covenant not to sue or an assumption of liability for any Defendant who does not make all payments required by this Consent Decree or any other person or entity not a party to this Consent Decree. It is not the intention of the parties that this paragraph operate as a release of any party to this litigation.

105. Consideration. The covenant not to sue and assumption of liability contained in paragraph 104 is given in consideration of a payment by each Premium Settling Defendant and Premium Settling Federal Agency of the amount shown for such entity in column 4 of Exhibit 4. Each such payment represents an amount equal to or greater than the fair share of the respective Premium Settling Defendant or Premium Settling Federal Agency for

the remedial action to be performed pursuant to the RAP, and no such payment is a fine, penalty or monetary sanction of any kind.

106. Reservation. The covenant not to sue and assumption of liability contained in paragraph 104 shall not apply to any claim or demand for personal injury, property damage or "toxic tort" claims of any kind or any other matter not the subject of this Consent Decree.

107. Covenant Null and Void. In the event it is ever shown that any Premium Settling Defendant (other than the City) or Premium Settling Federal Agency is responsible under CERCLA or other laws or regulations referred to in paragraph 104 for more than 669 drums (or drum equivalents) of waste materials ever at the Seymour Site, the covenant not to sue and assumption of liability provided in paragraph 104 shall be null and void as to such Premium Settling Defendant or Premium Settling Federal Agency, and such Premium Settling Defendant or Premium Settling Federal Agency shall be subject instead to all the requirements and obligations of Settling Defendants and Settling Federal Agencies set forth in this Decree.

108. Effective Date. The covenant not to sue and indemnity provisions of paragraph 104 shall become effective upon payment to the Seymour Site Trust Fund of the amount set forth in column 4 of Exhibit 4, subject to and in accordance with the provisions of this Section XXVI.

109. United States' Reservation of Rights. Nothing in this Section XXVI shall restrict the United States' ability to

seek performance of this Consent Decree from any Settling Defendant including any Premium Settling Defendant.

SECTION XXVII

INDEMNIFICATION

110. Indemnification. The Settling Defendants agree to indemnify and hold harmless the United States and/or their representatives from any and all claims or causes of action for any injuries or damages to persons or property caused solely by the acts or omissions of the Settling Defendants or their representatives, contractors or agents in carrying out activities under this Consent Decree. The United States shall provide Settling Defendants reasonable notice of any such claims or actions, and Settling Defendants may join in the defense of all claims or causes of action within the scope of this indemnification.

SECTION XXVIII

NOTICES

111. Whenever under the terms of this Consent Decree notice is required to be given, unless otherwise specified, or a report or other document is required to be forwarded by one party to another, notice shall be directed to the following officials at the addresses specified below:

As to the United States:

Assistant Attorney General
Land and Natural Resources
Division
U.S. Department of Justice
Washington, D.C. 20530

As to the State of Indiana:

Attorney General
State of Indiana
Attn: Seymour Coordinator
State House
Room 219
Indianapolis, Indiana 46204

Regional Counsel
Attn: Seymour Coordinator
U.S. Environmental Protection
Agency, Mail Code 5C
115 W. Jackson Street
Chicago, Illinois 60604

Commissioner, Indiana
Department of Environ-
mental Management
Attn: Seymour Site Coor-
dinator
105 S. Meridian Street
Indianapolis, Indiana 46204

Director, Waste Management
Division
Attn: Seymour Remedial Project
Manager
U.S. Environmental Protection
Agency
230 S. Dearborn Street
Chicago, Illinois 60604

As to the City of Seymour and
the Seymour Board of Aviation
Commissioners:

As to the Settling Defendants:

The Trustee of the
Seymour Site Trust Fund

Settling Defendants' Project
Coordinator

Mayor of Seymour
City Hall
220 North Chestnut Street
Seymour, Indiana 47274

President
Board of Aviation
Commissioners
c/o Airport Manager
1040 A Avenue
Freeman Municipal Airport
Seymour, Indiana 47274

SECTION XXIX

CONSISTENCY WITH NATIONAL CONTINGENCY PLAN

112. The Court finds and the parties agree that the remedial action required by this Consent Decree is consistent with the provisions of the National Contingency Plan and all actions taken pursuant to and in accordance with this Decree by the Settling Defendants or their employees, agents, representatives or contractors shall be afforded all protection contained in CERCLA as may be amended from time to time.

SECTION XXX

RESPONSE AUTHORITY

113. Nothing in this Consent Decree shall be deemed to limit the response authority of the United States under 42 U.S.C. §9604.

SECTION XXXI

GENERAL PROVISIONS

114. The United States and the State are not to be construed by reason of this Consent Decree as parties to any contract entered into by the Settling Defendants in carrying out the activities pursuant to this Consent Decree.

115. The Settling Defendants shall not assert any claims against the Hazardous Substance Superfund under CERCLA that are related to money paid or work done pursuant to this Consent Decree. Nothing in this Decree shall be construed as a preauthorization for any such claim.

116. Whenever reference is made in this Consent Decree to federal, state or local laws, or requirements, unless otherwise stated, that reference is to the law or requirements in effect at the time the relevant application, construction, operation, compliance or other activity occurs.

117. No informal advice, guidance, suggestions or comments by the United States or the State on plans, reports or other documents submitted by the Settling Defendants shall be construed as relieving them from obtaining formal approvals, permits or other authorizations to the extent any are required

pursuant to this Consent Decree. Further, no advice, guidance, suggestions or comments by the United States or the State with respect to any submission by the Settling Defendants shall be construed so as to relieve them of their obligations under this Consent Decree or to transfer any of their liability or obligations under this Consent Decree to any other party or person.

118. Except as otherwise expressly provided in the Consent Decree,

(a) a party seeking enforcement shall have the burden of establishing violation of the Consent Decree;

(b) a party asserting excuse from performance shall have the burden of establishing such excuse; and

(c) a party challenging any other action or omission by any other party under this Decree shall have the burden of establishing that such act or omission is inconsistent with the terms of the Decree.

119. Nothing herein shall preclude the use of any remedies or sanctions, including contempt, which may be available to the United States, the State or the Settling Defendants to enforce provisions of this Consent Decree.

120. If the date for submission of any item or notification required by this Decree falls upon a weekend or State or Federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

121. The titles of sections, paragraphs and subparagraphs used in this Decree are included for ease of reference only and are not intended to be used in interpreting the provisions of this Decree.

SECTION XXXII

USE OF CONSENT DECREE

122. This Consent Decree was negotiated and executed by the parties in good faith to avoid further expensive and protracted litigation and is a settlement of claims which were vigorously contested, denied and disputed as to validity and amount. The execution of this Consent Decree is not an admission of any fact or liability on any issue dealt with in this Consent Decree. Accordingly, it is the intention of the parties that, with the exception of this proceeding and any other proceeding to enforce this Consent Decree, this Consent Decree shall not be admissible in any judicial or administrative proceeding (except that it may be admissible in a judicial or administrative proceeding between a Settling Defendant and its insurance company or any other person or firm for contribution or indemnity). It is further agreed and ordered that the payments made herein by the Settling Defendants are not and do not constitute penalties, fines or monetary sanctions of any kind.

SECTION XXXIII

RETENTION OF JURISDICTION

123. The Court shall retain jurisdiction of the subject matter and parties to this action for the purposes of

enforcing, interpreting or modifying the terms of this Consent Decree.

SECTION XXXIV

EFFECTIVE AND TERMINATION DATES

124. This Consent Decree shall be effective upon the date of its entry by the Court.

125. Certification of Completion of Remedial Action.

a. Application. When the Settling Defendants believe that the demonstration of compliance with Cleanup Standards (or, in the case of waiver, Alternate Cleanup Standards) has been made and that operation of the soil vapor extraction system has been completed in accordance with this Decree, they shall submit to the United States a Notification of Completion of Remedial Action and a final report which summarizes the work done, any modification made to the RAP or work plans thereunder relating to the Cleanup Standards, and the Cleanup Standards achieved or waived. The report shall include or reference any supporting documentation.

b. Certification. Upon receipt of the Notice of Completion of Remedial Action, EPA shall review the final report and any other supporting documentation, and the remedial actions taken. EPA shall issue a Certification of Completion of Remedial Action upon a determination that Settling Defendants have demonstrated compliance with Cleanup Standards (or, if a waiver has been granted, Alternate Standard(s)) as required by paragraph 23(a)), that operation of the soil vapor extraction system in

accordance with the terms of this Decree has been completed and that the Settling Defendants are otherwise in compliance with the requirements of this Consent Decree at the time EPA reviews the Notice of Completion of remedial action.

126. Termination. Upon the filing of EPA's Certification of Completion pursuant to the preceding paragraph, and a showing that the other terms of this Consent Decree (other than the post-termination obligations referred to below) have been complied with, this Consent Decree shall be terminated upon motion of either party. However, Settling Defendants' obligations to perform post-termination monitoring, Cap maintenance, and reporting, set forth in paragraphs 23.b, 43-46 and 74 hereof, shall survive the termination of the Decree, and shall be enforceable by the United States by re-institution of this action or by institution of a new action. The provisions of Sections XXV, XXVI and XXVII of this Consent Decree shall also survive the termination of the Decree.

Entered this 1st day of December, 1988.



JUDGE WILLIAM E. STECKLER

The parties whose signature is affixed below hereby consent to the terms and entry of this Decree. The consent of the United States is subject to the public notice and comment provisions of 28 ^{C.F.R.}~~U.S.C.~~ § 50.7. *Ad 12/1/88*

UNITED STATES OF AMERICA

By: 

ROGER MARZULLA
Assistant Attorney General
Land and Natural Resources
Division
U.S. Department of Justice
Washington, D.C. 20530

Date: August 17, 1988

By: 

VALDAS V. ADAMKUS
Regional Administrator
U.S. Environmental
Protection Agency
Region V

Date: August 4, 1988

By: 

DEBORAH J. DANIELS
United States Attorney
274 United States Courthouse
46 East Ohio Street
Indianapolis, Indiana 46204

Date: August 17, 1988

By: 

THOMAS L. ADAMS, Jr.
Assistant Administrator
For Enforcement and
Compliance Monitoring
U.S. Environmental
Protection Agency

Date: August 9, 1988

By: 

JOHN BARKER
CATHERINE R. MCCABE
ANNA SWERDEL
KURT WEISSMULLER
Attorneys
Environmental Enforcement
Section
Land and Natural Resources
Division
U.S. Department of Justice
Washington, D.C. 20530

Date: August 17, 1988

By: 

LAWRENCE KYTE
JANE LUPTON
MARY FULGHUM
Assistant Regional Counsel
U.S. Environmental
Protection Agency
Region V
115 W. Jackson Street
Chicago, Illinois 60604

Date: August 17, 1988

STATE OF INDIANA

By:

Linley E. Pearson
LINLEY E. PEARSON
Attorney General of
Indiana

Date:

August 9, 1988

By:

Nancy A. Maloley
NANCY A. MALOLEY
Commissioner
Indiana Department of
Environmental Management

Date:

August 9, 1988

Signatures of each Settling Defendant are on the separate pages
annexed hereto.

LIST OF EXHIBITS

- Exhibit 1 RECORD OF DECISION ("ROD")
- Exhibit 2 SEYMOUR SITE MAP AND SURVEY
- Exhibit 3 • TRUST AGREEMENT FOR SEYMOUR SITE TRUST FUND
- Exhibit 4 APPORTIONMENT AMONG SETTling DEFENDANTS AND
 SETTling FEDERAL AGENCIES
- Exhibit 5 REMEDIAL ACTION PLAN ("RAP")
- Exhibit 6 SNYDE ACRES AREA DEFINITION (for purposes of well
 survey under Section XIII)
- Exhibit 7 DEED RESTRICTIONS ON USE OF SEYMOUR SITE
- Exhibit 8 DEED RESTRICTIONS ON USE OF CITY PROPERTY ADJACENT
 TO SEYMOUR SITE
- Exhibit 9 EASEMENT FOR ACCESS TO SEYMOUR SITE AND CITY
 PROPERTY ADJACENT TO SEYMOUR SITE
- Exhibit 10 • RESERVED CLAIMS
- Exhibit 11 PREMIUM SETTling DEFENDANTS

EXHIBIT 1

Separate Document

ATTACHMENT 2

INDEX OF THE ADMINISTRATIVE RECORD

SEPTEMBER 28, 1987
U.S. EPA, REGION V
CHICAGO, ILLINOIS

ATTACHMENT 3

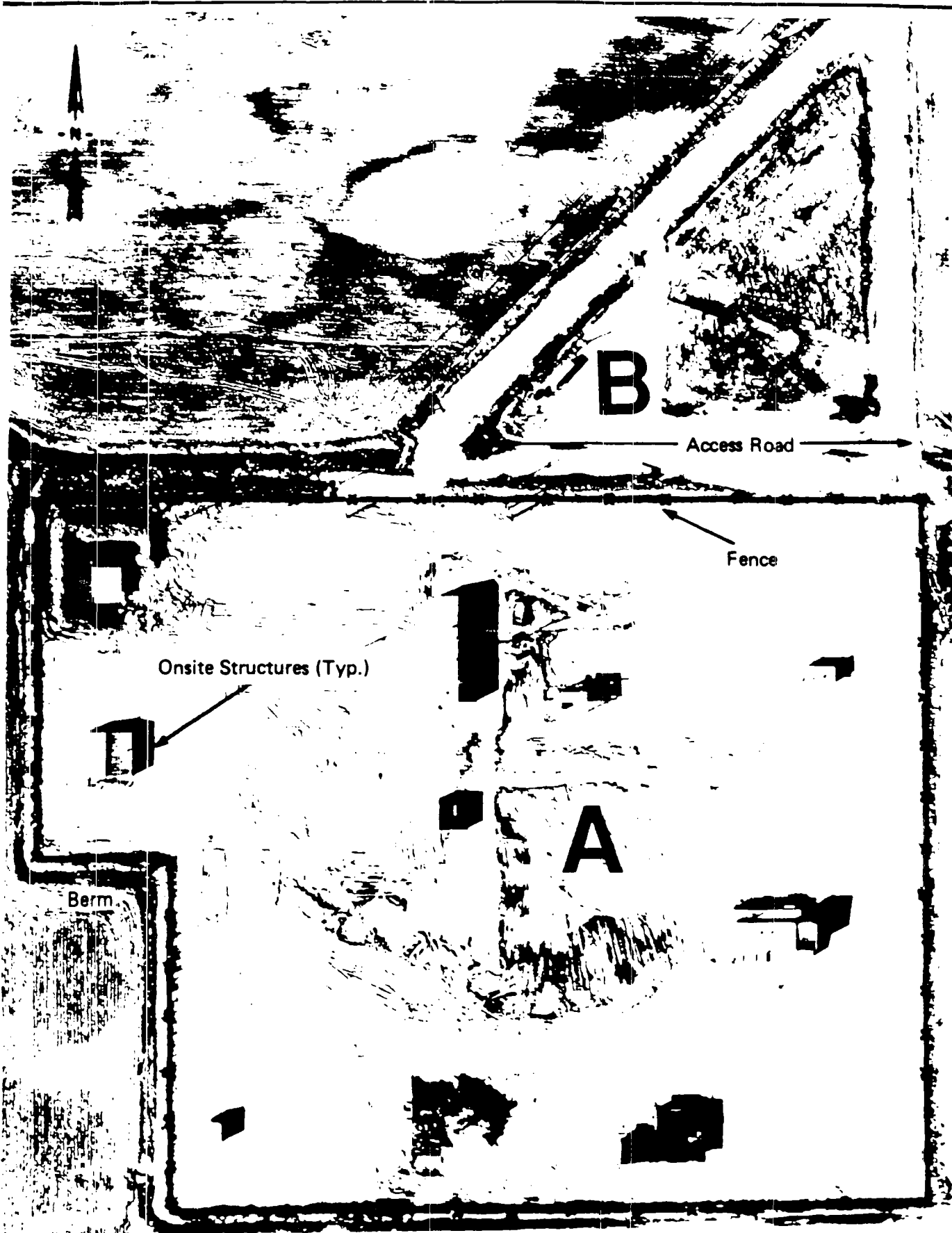
CONCURRENCE FROM THE OFFICE OF WASTE
PROGRAMS ENFORCEMENT

Appendix B

**SOMMER AND BARNARD COMMENT LETTER
BAKER & DANIELS COMMENT LETTER**

THE "ROD" CAN BE FOUND IN THE
SITE FILE IN A K.9 PRB FOLDER

EXHIBIT 2



0 50 100 150 300
FEET

EXHIBIT 2 A
SEYMOUR SITE DIAGRAM

CONSENT DECREE

Former Site of Seymour Recycling Corporation

A part of the Northwest quarter of Section 25, Township 6 North, Range 5 East of Jackson County, Indiana and being more particularly described as follows:

Commencing at the Northwest corner of said quarter; thence North 88 degrees 40 minutes East a distance of 2150.0 feet along the North line of said quarter to a point marked with a 1" iron pipe; thence South 01 degree 12 1/2 minutes East a distance of 1040.3 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 415.9 feet to a 1" iron pipe, the point of beginning, said point of beginning is also the Southeast corner of tract 25D; thence South 00 degree 58 minutes East a distance of 656.0 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 702.0 feet to a point marked with a 1" iron pipe; thence North 01 degree 00 minutes West a distance of 324.0 feet to a point marked with a 1" iron pipe; thence South 89 degrees 16 minutes West a distance of 120.0 feet to a point marked with a 1" iron pipe; thence North 00 degree 54 minutes West a distance of 332.0 feet to a point marked with a 1" iron pipe; thence North 89 degrees 12 minutes East a distance of 822.0 feet to the point of beginning, and containing 11.49 acres, more or less.

EXHIBIT 2-B

SEYMOUR SITE PART A - SURVEY DESCRIPTION

Additional Acreage Leased by Seymour Recycling Corporation

A part of the Northwest quarter of Section 25, Township 6 North, Range 5 East in Jackson County, Indiana and being more particularly described as follows:

Commencing at the Northwest corner of said quarter; thence North 88 degrees 49 minutes East a distance of 2150.0 feet along the North line of said quarter to a point marked with a 1" iron pipe; thence South 01 degree 12 1/2 minutes East a distance of 1040.3 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 415.9 feet to a 1" iron pipe; the point of beginning, said point of beginning is also the Northeast corner of tract 25C; thence South 89 degrees 12 minutes West a distance of 465.7 feet to a point marked with a railroad spike; thence Northeasterly along a curve to the right along the centerline of the road to a point marked with a railroad spike, said point being North 21 degrees 24 minutes a distance of 91.5 feet from the last preceeding point; thence North 44 degrees 21 minutes East a distance of 605.7 feet along the centerline of the road to a point marked with a railroad spike; thence South 00 degree 58 minutes East a distance of 512.2 feet to the point of beginning, and containing 2.95 acres, more or less.

This description is subject to 33 feet right-of-way for the above mentioned road.

EXHIBIT 2-C

SEYMOUR SITE PART B - SURVEY DESCRIPTION

Appendix C

**PREDICTED WATER TABLE ELEVATIONS FOR EACH OF
THE FIVE GROUNDWATER EXTRACTION OPTIONS**

Figure C-1. Predicted water table for extraction scheme 1

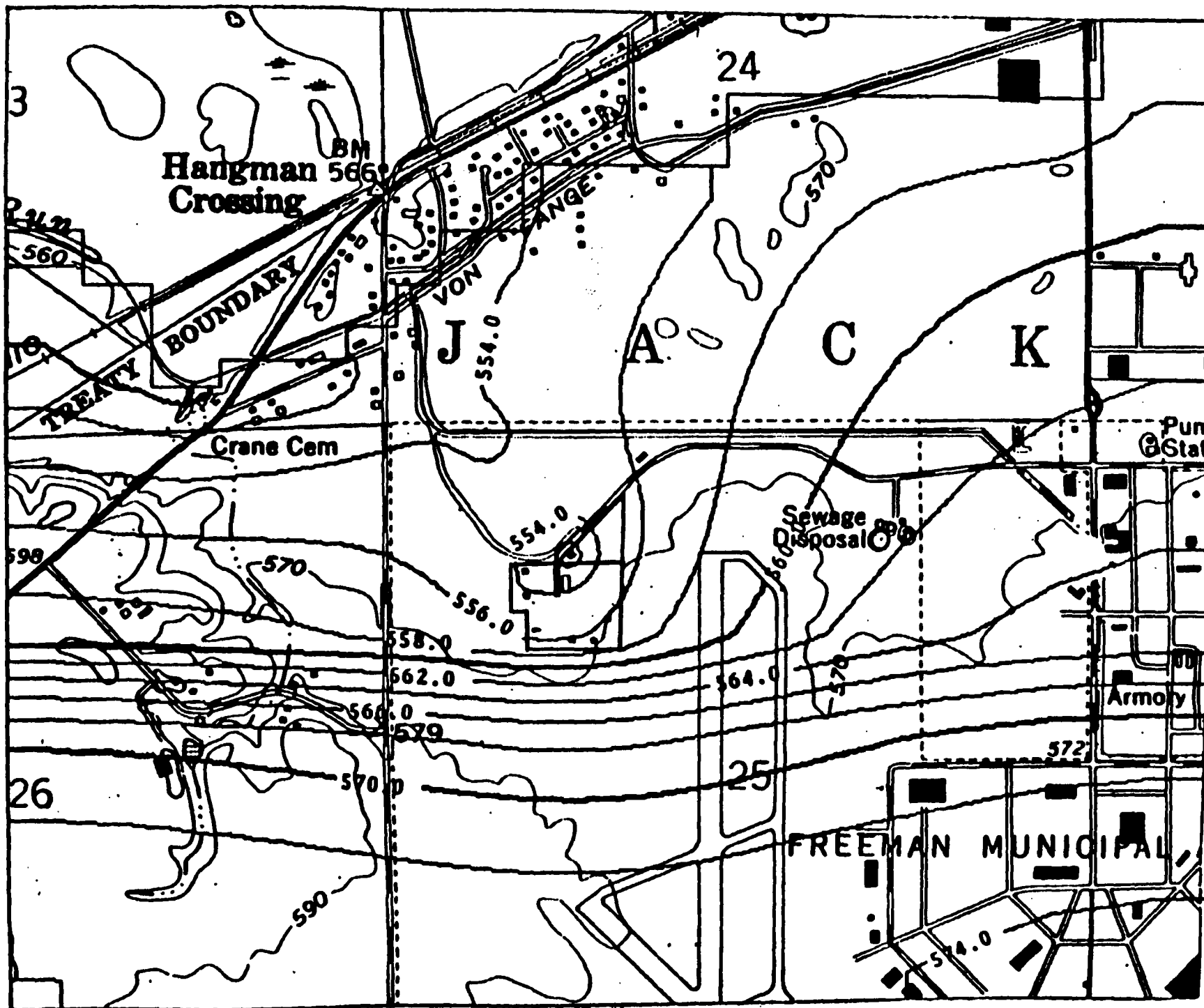


Figure C-3. Predicted water table for extraction scheme 3

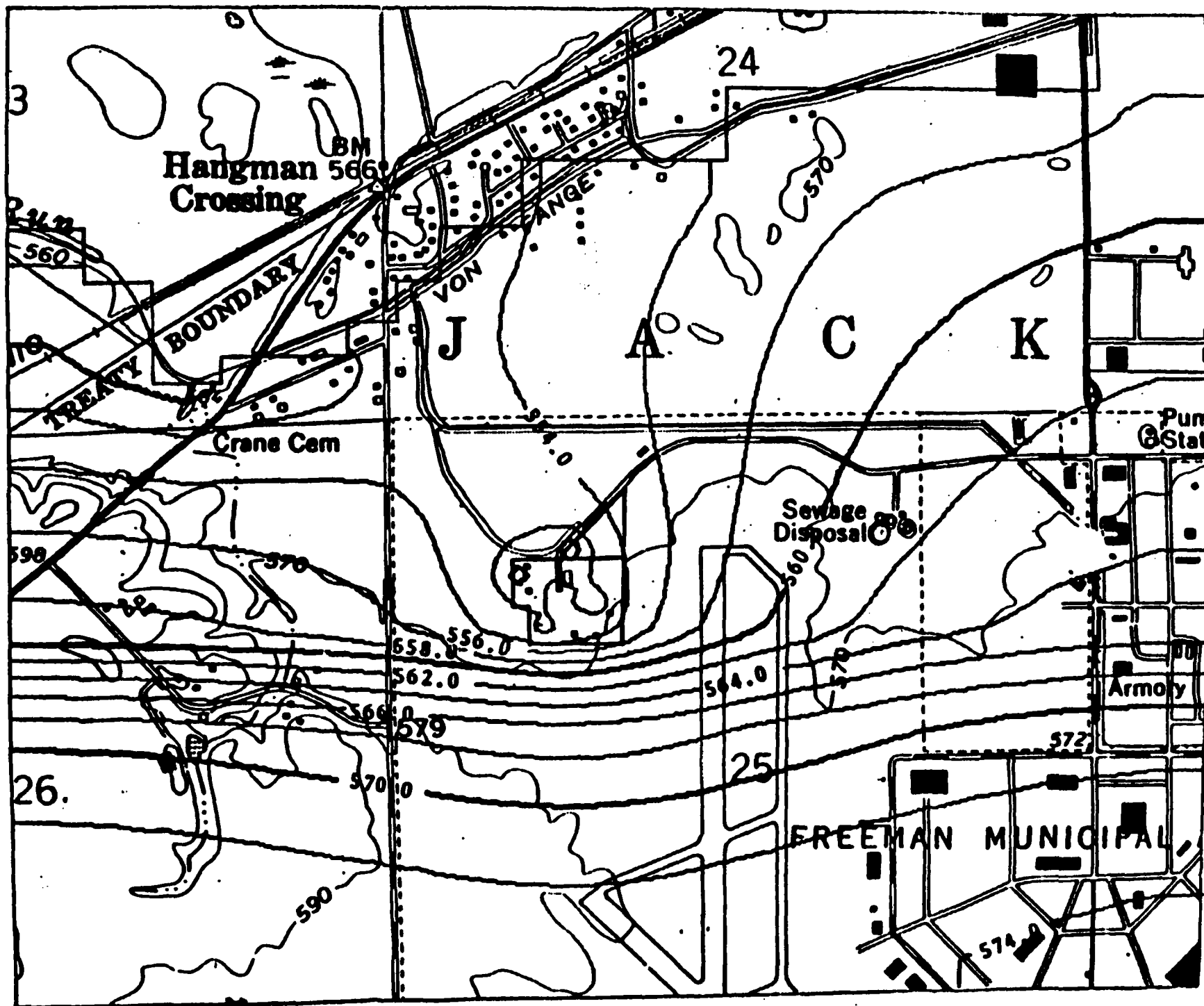


Figure C-4. Predicted water table for extraction scheme 4

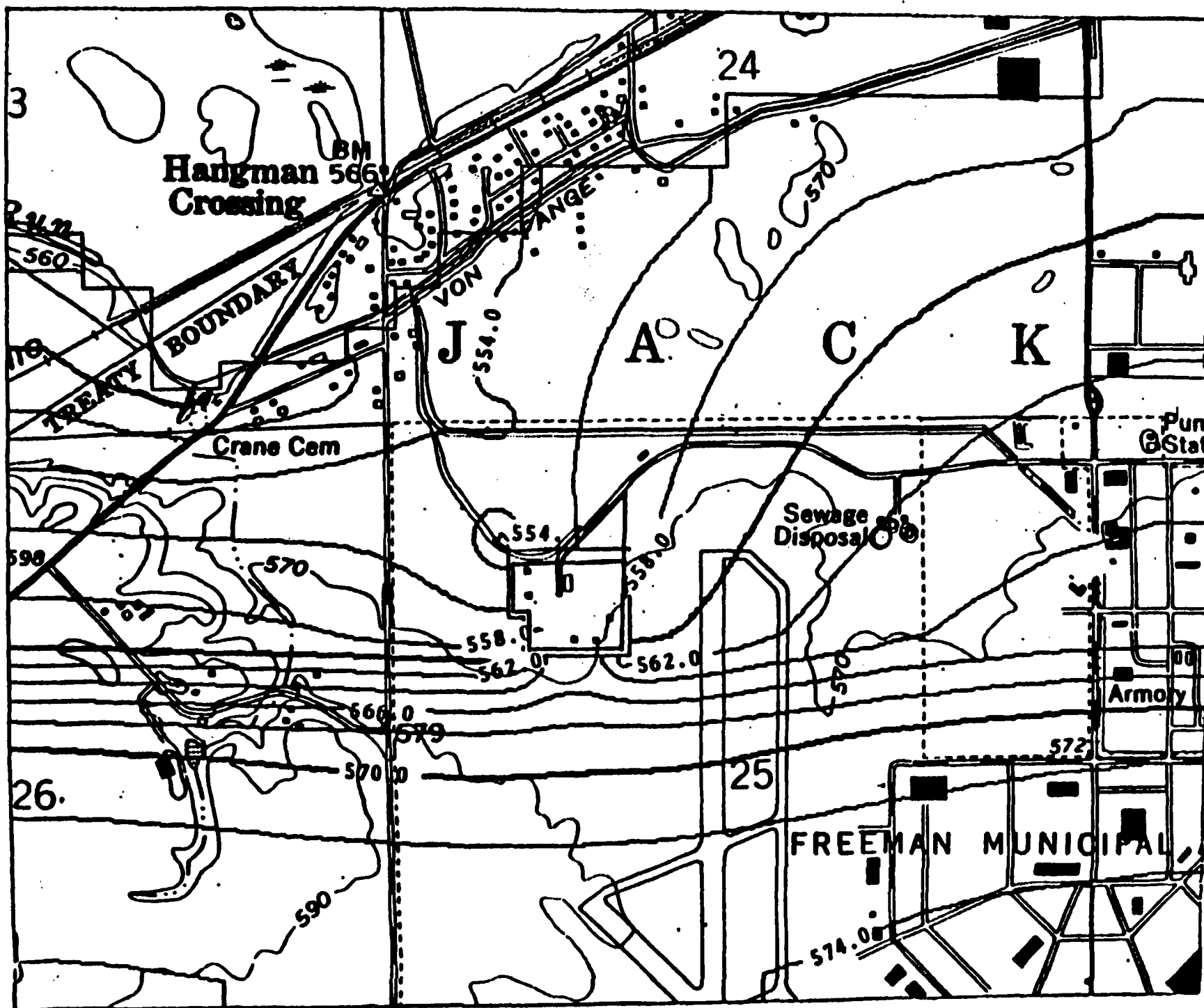


Figure C-5. Predicted water table for extraction scheme 5

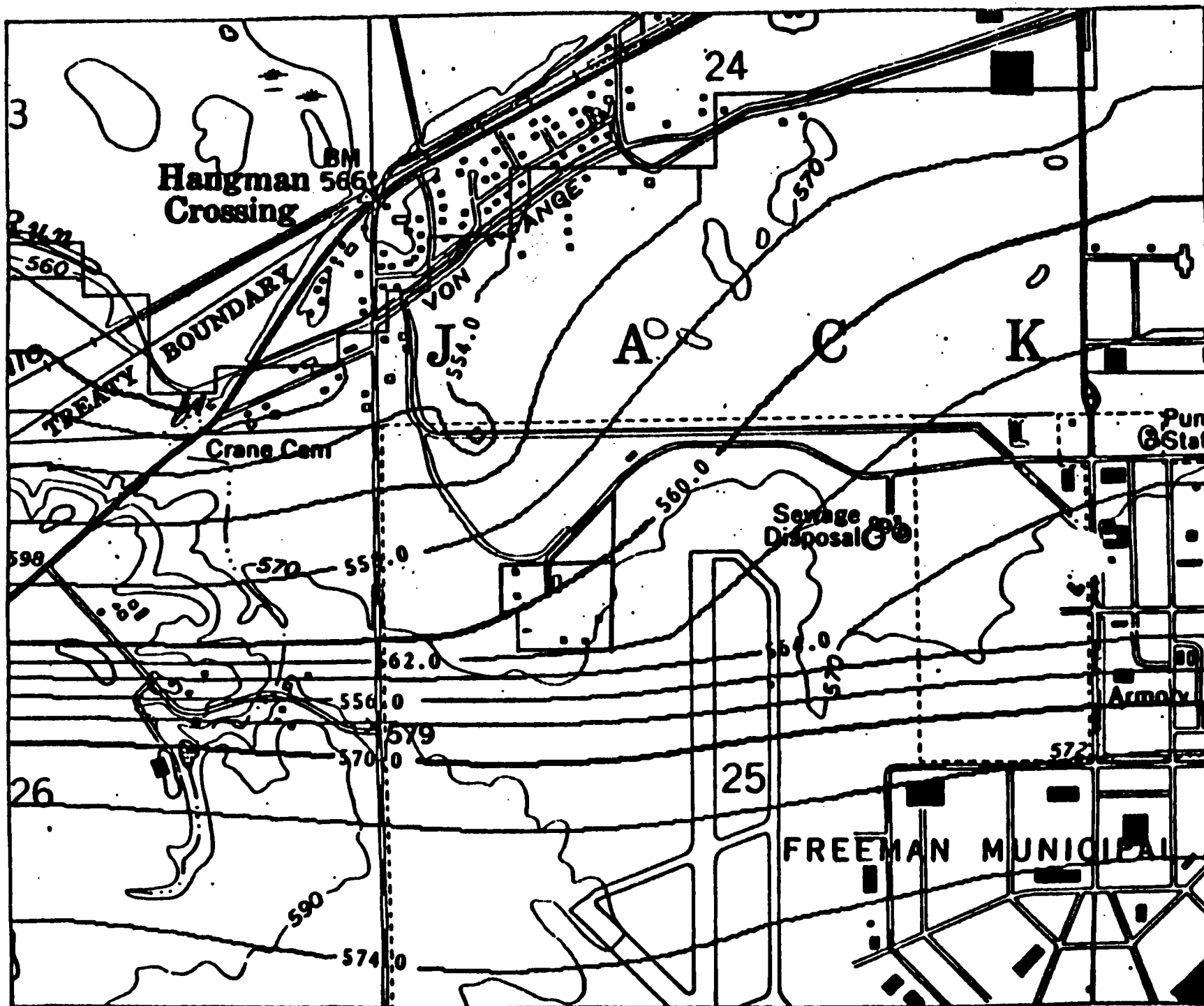


EXHIBIT 3

SEYMOUR SITE TRUST FUND AGREEMENT

THIS AGREEMENT is made and effective as of April 11, 1988, by and among the parties listed in Appendix A hereto (the "Grantors") and _____ (hereinafter referred to, together with any successor in office, as the "Trustee").

The Grantors hereby grant to the Trustee, to have and to hold in trust, the funds to be contributed hereunder and such additional funds as may from time to time be added thereto as provided herein, together with the proceeds and reinvestments thereof (hereinafter collectively referred to as the "Trust Fund"), for the uses and purposes and upon the terms and conditions hereinafter set forth:

ARTICLE I

PURPOSE, GRANTORS, AND NAME

1.01 Trust Purpose. The purpose of the trust created by this Agreement (the "Trust") is to provide for the performance of the obligations of the Grantors under the Consent Decree which will be entered on or about _____, 1988 in United States of America v. Seymour Recycling Corporation, et al., Civil Action No. IP-80-457-C (S.D. Ind.) (hereinafter referred to as the "Consent Decree"). To fulfill that purpose, the Trustee shall take appropriate actions as authorized herein to ensure that the Consent Decree is fully effectuated, and may take such other actions to acquire necessary permits and to facilitate the economical performance of the obligations of the Grantors under

the Consent Decree as the Trustee may deem necessary or appropriate. The provisions of this Agreement and the rights and duties granted to the Trustee hereunder shall not diminish or modify the rights or duties of the Grantors pursuant to the Consent Decree. All terms which are defined in the Consent Decree and not otherwise defined herein shall have the same meanings when used herein as so defined unless the context otherwise requires.

1.02 Grantors. Each Grantor shall contribute funds to the Trustee (by certified check or wire transfer) in the respective amounts specified by the Consent Decree within thirty (30) days of the entry of the Consent Decree. Such funds shall thereby become a part of the Trust Fund. Only upon the payment by a Grantor of the initial contribution to the Trust Fund required of it hereunder shall such Grantor be deemed to have become and qualified as a Grantor of the Trust created hereunder. At the end of the thirty (30) day period from entry of the Consent Decree, the Trustee shall prepare and mail to each Grantor a schedule listing all Grantors and the amount contributed to the Trust Fund by each.

1.03 Name of Trust Fund. The funds received by the Trustee from the Grantors together with the proceeds and re-investments thereof and the proceeds received from the 1983 Pro-Rata Settlement Trust Fund shall be known as the Seymour Site Trust Fund.

ARTICLE II

MANAGEMENT OF TRUST

2.01 Payments of Income and Principal. During the term of the Trust, the Trustee shall use so much or all of the income and/or principal of the Trust Fund as the Trustee deems necessary or advisable to cause the remedial action work required by the Consent Decree to be performed and to otherwise satisfy the Grantors' obligations under and in accordance with the Consent Decree.

2.02 Additions to Trust Fund. Except as otherwise provided in the Consent Decree with respect to those Grantors who are Premium Settling Defendants, the Grantors retain an unlimited obligation to ensure that the Trust Fund has sufficient assets to complete the remedial action work required under the Consent Decree and to fulfill any other obligations arising thereunder or hereunder. The Trustee shall make demands in writing upon the Grantors for additional contributions to the Trust Fund in aggregate amounts determined by the Trustee as necessary and in sufficient time to satisfy the purposes of the Consent Decree and the Trust. The portion of such aggregate amount to be contributed by each Grantor shall be that which is proportionate to its initial contribution to the Trust Fund (excluding contributions by Premium Settling Defendants) as specified in the Consent Decree, and shall be paid to the Trustee within thirty (30) days of receipt of written demand from the Trustee. In the event that any Grantor fails to timely pay all or any part of any amount required under this section or section 1.02, the Trustee shall be

entitled to institute litigation to recover such past due amount, together with interest thereon and all costs and counsel fees associated with the Trustee's efforts to obtain such payments, to the extent provided for by law. If the shortfall in funds resulting from such failure to pay threatens to cause a delay or interruption in the remedial action work required to be performed under the Consent Decree, the Trustee shall require the other Grantors to pay the amount of the shortfall into the Trust Fund in the manner and in the relative amounts (adjusted, however, to cover the share of the Grantor(s) who failed to pay) provided in this section 2.02.

2.03 No Transferability of Interest in the Trust. The interests of the Grantors in the Trust Fund and their obligations under this Agreement are not transferable, except to a successor corporation or corporations.

2.04 Termination. The Trust shall terminate upon satisfaction of all obligations set forth in the Consent Decree or upon any earlier date required by law.

2.05 Distribution of Trust Fund Upon Termination. Upon termination of the Trust, the Trustee shall liquidate the Trust Fund and distribute the entire balance of the Trust Fund, including all accrued, accumulated and undistributed net income, to the Grantors who are not Premium Settling Defendants in proportion to their respective contributions to the Trust Fund during the term of the Trust and excluding contributions made by Premium Settling Defendants and Grantors who cannot be located. If any Grantor or its successor cannot be located after diligent

effort, its share of the Trust Fund shall be deemed to be waived and shall be distributed to the remaining Grantors who are not Premium Settling Defendants in proportion to their respective contributions to the Trust Fund.

2.06 Control by Grantors. A Majority of Grantors (as that term is defined in section 5.01) may at any time direct the Trustee in writing to take any action or to refrain from taking any action, provided that such direction does not conflict with the Grantors' or the Trustee's obligations under the Consent Decree. This provision is not intended to alter in any way the other provisions of this Agreement which confer power and authority upon the Trustee to manage the Trust.

ARTICLE III

THE TRUSTEE

3.01 Designation of Trustee. The Trustee named herein is a designee of a Grantor (the "Appointing Grantor"), which has agreed that such designee may serve as the Trustee hereunder. The Appointing Grantor is performing a voluntary service on behalf of all Grantors, and all Grantors agree that in no event will they or their successors attempt to impose any liability on the Appointing Grantor for the acts or omissions of the Trustee except as otherwise expressly provided herein. The Appointing Grantor may appoint itself Trustee. The Trustee named herein hereby agrees to serve as Trustee hereunder and to be bound by the terms of this Agreement.

3.02 Resignation and Removal. The Trustee may resign at any time upon providing ninety (90) days' written notice of such resignation to the Grantors. The Trustee may be removed at any time, with or without cause, by the Appointing Grantor or by the vote of a Majority of Grantors. The resignation or removal of the Trustee shall not become effective until a successor Trustee has been appointed. In the event of the resignation of the Trustee, the removal of the Trustee by the Appointing Grantor, or the death or adjudication of the Trustee as an incompetent, the Appointing Grantor shall appoint a successor Trustee and inform the other Grantors in writing of such appointment. In the event of the removal of the Trustee by vote of a Majority of Grantors, a successor Trustee shall be selected by the affirmative vote of a Majority of Grantors. A successor Trustee shall qualify by executing an acknowledgment of acceptance of the Trust and the obligations imposed upon him as the Trustee hereunder and delivering a copy thereof to each Grantor. A successor Trustee shall have all of the rights, powers, duties, and obligations herein granted to or imposed upon the original Trustee.

3.03 Exoneration From Bond. No bond or other security shall be required of the Trustee. The Trustee may acquire and pay from the Trust Fund any accident, liability, or other insurance or bond that he may deem prudent in the administration of the Trust, including insurance protecting the Trustee from liability arising from any act or omission in administering the Trust.

3.04 Compensation. Any compensation to the Trustee shall

be paid by the Appointing Grantor or by the designator of any successor Trustee. In no event shall the Trustee be entitled to any compensation paid from the Trust Fund. The Trustee (or the Appointing Grantor, if applicable) shall be entitled to be reimbursed from the Trust Fund for any out-of-pocket expenses incurred in connection with the administration of the Trust. Such reimbursement shall be made on at least a semiannual basis and shall be sufficiently documented to support such reimbursement.

3.05 Financial Reports. On or before June 1 of each year following entry of the Consent Decree, the Trustee shall submit to the Grantors and to the EPA Remedial Project Manager annual financial statements of the Trust Fund. The financial statements shall be audited by independent certified public accountants selected by the Trustee and shall show the financial condition, income, and expenses of the Trust Fund for or as of the end of the preceding fiscal year.

3.06 Retention of Contractor and Project Coordinator. The Trustee shall retain and supervise on behalf of those Grantors who are Settling Defendants under the Consent Decree a Contractor or Contractors to perform the remedial action work required under the Consent Decree. The Trustee shall also designate and retain on behalf of the Settling Defendants a Project Coordinator to perform the duties prescribed therefor by the Consent Decree. Written notice of such engagements and copies of the agreements entered into by the Trustee with the Contractor(s) and the Project Coordinator shall be sent by the Trustee to the Settling Defendants within five (5) days of such engagements.

3.07 Liability. The Trustee shall be liable only for damages or liabilities resulting from his own willful misconduct or gross neglect. Without limiting the generality of the foregoing, the Trustee shall not be liable for the acts or omissions of any prior Trustee or with respect to the exercise or non-exercise of any power properly delegated by the Trustee in accordance with the terms of this Agreement. The Appointing Grantor shall not be liable for any acts or omissions of the Trustee appointed by it or for any matters relating to its appointment of the Trustee except for damages or liabilities resulting from the Appointing Grantor's own willful misconduct or gross neglect.

3.08 Indemnification. The Trustee may use the Trust Fund to indemnify, defend, and hold harmless himself, any prior Trustee, or the Appointing Grantor for any and all liability arising under this Agreement or from the administration of the Trust except with respect to any liability that may be imposed pursuant to section 3.07, and as to the Appointing Grantor, except with respect to liability resulting from any obligation which the Appointing Grantor has in common with all other Grantors under this Agreement or under the Consent Decree.

ARTICLE IV TRUSTEE'S POWERS

The Trustee shall have in addition to those powers specified elsewhere herein and the general powers of the office, the following powers, which shall be exercised in a fiduciary capacity,

in the best interests of the Trust and the beneficiaries thereof, and in the sole discretion of the Trustee unless otherwise specified:

4.01 Payment of Expenses of Administration. To incur and pay any and all charges, taxes and expenses of or upon or connected with the Trust or the Trust Fund in the discharge of his fiduciary obligations hereunder.

4.02 Retention of Property. To hold and retain all or any part of the Trust Fund in the form in which the same may be at the time of the receipt by the Trustee, as long as he shall deem advisable, notwithstanding that the same may not be authorized by the laws of any state or rules of any court for the investment of trust funds, and without any liability for any loss of principal or income by reason of such retention.

4.03 Preservation of Principal. To at all times manage the Trust Fund in a manner designed to maximize and preserve the income and principal of the Trust Fund for the purposes of the Trust.

4.04 Investment of Trust Fund. Pending use of the Trust Fund for the purposes of the Trust, to invest and reinvest all or any part of the Trust Fund, including any income therefrom, in United States direct obligations, obligations guaranteed by agencies of the United States government, common trust funds or mutual funds which invest in United States direct or guaranteed obligations, bank certificates of deposit to the extent they are insured by an agency of the federal government, and common trust funds or money market funds investing in short term municipal

bonds. In all cases, however, the total investments must be sufficiently liquid to permit the fulfillment of the purposes of the Trust and to satisfy obligations as they become due. Nothing in this section 4.04 shall be construed as authorizing the Trustee to carry on any business or to divide the gains therefrom. The sole purpose of this section 4.04 is to authorize the investment of the Trust Fund (or any part thereof) as may be reasonably prudent pending use of the Trust Fund for the purposes of the Trust.

4.05 Management of Trust Fund. As may be incidental or advisable in connection with the purposes of the Trust, to sell, exchange, partition or otherwise dispose of all or any part of the Trust Fund at public or private sale, without prior application to or approval by or order of any court, upon such terms and in such manner and at such prices as the Trustee shall determine.

4.06 Extension of Obligations and Negotiation of Claims. To renew or extend the time of payment of any obligation, secured or unsecured, payable to or by the Trust, for as long a period or periods of time and on such terms as the Trustee shall determine, and to adjust, settle, compromise and arbitrate claims or demands in favor of or against the Trust, including claims for taxes, upon such terms as the Trustee deems advisable, subject, however, to the extent applicable, to the provisions of the Consent Decree concerning Dispute Resolution.

4.07 Registration of Securities. To hold any stocks, bonds, securities and/or other property in the name of a nominee,

in a street name, or by other title-holding device, without indication of trust.

4.08 Location of Assets. To keep the Trust Fund or any portion thereof at any place in the United States.

4.09 Authority to Represent Grantors. To represent the Grantors with regard to any matter concerning the Trust or its purposes before any federal, state, or local agency or authority which has authority or attempts to exercise authority over the remedial action work required by the Consent Decree or over any matter which concerns the Trust.

4.10 Institution of Litigation. To institute, in the Trustee's discretion, litigation in the name of the Trust against (i) any party to the litigation referred to in section 1.01 which refuses to participate in the settlement provided by the Consent Decree or which agrees to participate in such settlement but fails to make any payment to the Trust Fund required hereunder, (ii) any insurance carrier as to which a claim for an amount owed or alleged to be owed has been assigned to the Trust, or (iii) any other person as to any matter arising under or relating to the Consent Decree or this Agreement.

4.11 Retention of Counsel. To retain legal counsel to represent or advise the Trustee with respect to any matter incidental to the purposes of the Trust or the powers or duties of the Trustee hereunder.

4.12 Delegation of Ministerial Powers. To delegate to other persons such ministerial powers and duties as he may deem to be advisable.

4.13 Powers of Trustee to Continue Until Final Distribution. To exercise any of the powers provided for herein until such time as the entire principal of, and income from, the Trust Fund shall have been actually distributed by the Trustee. It is intended that distribution of the Trust Fund will occur as soon as practicable upon termination of the Trust.

4.14 Permits. To apply for the issuance, assignment, or renewal of all necessary permits for performance of the remedial action work required by the Consent Decree.

4.15 General Powers. To do any and all other acts which the Trustee shall deem necessary or proper to effectuate the purposes of the Trust.

ARTICLE V

MISCELLANEOUS PROVISIONS

5.01 "Majority of Grantors" Defined; Voting. A Majority of Grantors is hereby defined as any one or more Grantors entitled to vote on any particular matter hereunder whose aggregate contributions to the Trust Fund, excluding contributions of those Grantors who constitute Premium Settling Defendants under the Consent Decree and any Grantor who has failed to make any contribution required of it hereunder (collectively referred to hereinafter as "Non-Voting Grantors"), exceeds fifty percent (50%) thereof. Each Grantor, except Non-Voting Grantors, shall be entitled to cast a number of votes proportionate to its contribution to the total contributions of the Trust Fund excluding contributions by Non-Voting Grantors on any matter as to which a

vote of Grantors is provided for under this Agreement. Voting may take place at any duly called meeting of Grantors, in person or by proxy, or by written consent resolution adopted in lieu of a meeting. Any meeting of Grantors may be called by the Trustee or by Grantors holding not less than one-third (1/3) of the total number of votes entitled to be cast on the action proposed to be taken. Notice of the time, place, and purpose of any meeting shall be sent to all Grantors entitled to vote at such meeting by registered or certified mail not less than ten (10) days prior to the meeting. Meetings may be held in person or via telephone conference.

5.02 Headings. The article and section headings set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in the construction or interpretation of any of the provisions of this Agreement.

5.03 Particular Words. Any word contained in the text of this Agreement shall be read as the singular or plural and as the masculine, feminine or neuter as may be applicable or permissible in the particular context. Unless otherwise specifically stated, the word "person" shall be taken to mean and include an individual, partnership, association, or corporation.

5.04 Severability of Provisions. If any provision of this Agreement or its application to any person or entity in any circumstance shall be invalid or unenforceable, the application of such provision to other persons or entities or in other circumstances shall not be affected by such invalidity or unenforceability.

5.05 Notices Under Agreement. Any notice required by this Agreement to be given to a Grantor shall be deemed to have been properly given when mailed, postage prepaid, by registered or certified mail, to the person who has executed this Agreement on behalf of that Grantor, at the address set forth below such person's signature. Any Grantor may change the person to whom notices are to be sent or such address by delivering notice thereof in writing to the Trustee.

5.06 Counterparts of Agreement. This Agreement may be executed in counterparts, any one of which for all purposes shall be deemed to have the status of an executed original.

5.07 Governing Jurisdiction. The Trust is created under the laws of the State of Indiana. All questions pertaining to its validity, construction and administration shall be determined in accordance with the laws of that state.

5.08 Successors in Interest. This Agreement is binding on all Grantors and their successors in interest.

5.09 Miscellaneous. It is intended that the Trust be treated as a grantor trust for federal income tax purposes and that each Grantor hereof shall be treated as the owner of that portion of the Trust Fund as its contributions to the Trust Fund bear to all contributions to the Trust Fund. The Trust shall operate on an accounting year which coincides with the calendar year, January 1 through December 31.

IN WITNESS WHEREOF, the Grantors and the Trustee have respectively caused this instrument to be signed by persons duly authorized to sign on behalf of each party.

TRUSTEE SIGNATURE PAGE TO
SEYMOUR SITE TRUST FUND AGREEMENT

The party whose signature is affixed below hereby consents to perform the duties of Trustee in accordance with the terms of the Seymour Site Trust Fund Agreement, and executes such Agreement as Trustee thereunder.

Date: _____ By _____
Trustee

Name of Appointing Grantor

Witness: _____

Address

GRANTOR SIGNATURE PAGE TO
SEYMOUR SITE TRUST FUND AGREEMENT

The party which has caused this instrument to be signed on its behalf below hereby consents to the terms of the Seymour Site Trust Fund Agreement and executes such Agreement as a Grantor thereunder.

Date: _____

By _____
Name, Title

Name of Grantor

Attest: _____

Address

APPENDIX A

List of Grantors

EXHIBIT 4

Allocation -- U.S. v. Seymour Recycling Corp.

COMPANY	QUANTITY (DECIMAL) (TONS)	PERCENTAGE	SHARE OF \$15,000,000	De Minimis SETTLEMENT OPTION
MONSANTO	4159.98	16.63%	2,444,792	
COMMERCIAL SOLVENTS (IMC)	2183.70	8.73%	1,356,266	
CARSTAB CORP.	1409.75	5.64%	795,445	
KENDALL CO.	1296.98	5.19%	747,815	
JONES CHEMICALS, INC.	977.49	3.91%	607,106	
MOBIL CHEMICAL CO.	911.72	3.65%	496,770	
LENK MANUFACTURING CO.	647.43	2.59%	345,272	
PB&S CHEMICAL CO.	587.81	2.35%	365,081	
GUARDSMAN CHEMICALS, INC.	563.70	2.25%	319,158	
PHELPS DODGE INDUSTRIES	543.12	2.17%	337,324	
CONTRACTORS UNITED	508.87	2.03%	316,052	
MCB MFG. CHEMISTS	488.95	1.95%	303,680	
RELIANCE UNIVERSAL	483.00	1.93%	299,985	
KENTUCKY ELECTRONICS CORP.	481.69	1.93%	299,171	
STEWART-WARNER CORP.	442.15	1.77%	274,613	
HEXCEL CORP.	430.09	1.72%	267,123	
ASHLAND CHEMICAL	408.96	1.64%	231,508	
GLOBE UNION CORP.	396.52	1.59%	246,273	
ANGELL MANUFACTURING CO.	395.24	1.58%	245,478	
MULLER INDUSTRIES	383.61	1.53%	238,255	
U.S. STEEL	344.43	1.38%	213,921	
LAKEWAY CHEMICALS (BOFORS NOBEL)	300.86	1.20%	186,860	
VELSICOL CHEMICAL	285.89	1.14%	156,452	
DAYTON PRESS	272.18	1.09%	169,047	
NATICO INC.	250.22	1.00%	141,310	
CLOUDSLEY CO.	249.41	1.00%	154,905	
HAAS CABINET	245.82	0.98%	152,675	
LIQUID DYNAMICS	237.11	0.95%	147,266	
A.O. SMITH CORP.	232.64	0.93%	144,490	
TECHNICAL PRODUCTS, INC.	231.54	0.93%	143,806	
MANVILLE CORP.	197.55	0.79%	122,696	
SARKIS TARZIAN	183.14	0.73%	113,746	
UNION CARBIDE	176.28	0.70%	109,485	
COLUMBIA ORGANICS CORP.	172.81	0.69%	107,330	
PORTER PAINT CO.	159.49	0.64%	90,148	180,296
E.H. MARCUS PAINT	156.47	0.63%	90,737	181,474
CARTHAGE MILLS	149.55	0.60%	92,883	185,767
EGYPTIAN LACQUER MFG.	148.85	0.60%	92,449	184,897
HUDSON WIRE CO.	138.58	0.55%	78,108	156,216
IVC INDUST. COATINGS	132.54	0.53%	82,319	164,638
MARTIN-MARIETTA	127.50	0.51%	79,189	158,377
MULTI-CHEM. CORP.	124.24	0.50%	77,164	154,328
POLYMER RECOVERY	113.50	0.45%	70,493	140,987
WABASH PROD. CO.	108.63	0.43%	67,469	134,937
BLATZ PAINT CO.	106.96	0.43%	66,431	132,863
HOCO INC.	103.94	0.42%	64,556	129,111
AM. GREETINGS	101.74	0.41%	63,189	126,379
FMCONITE CORP.	95.82	0.38%	59,512	119,025

Allocation -- U.S. v. Seymour Recycling Corp.

COMPANY	QUANTITY (DECIMAL)		SHARE OF	De Minimis SETTLEMENT OPTION
	(TONS)	PERCENTAGE	\$15,000,000	
CLOPAY CORP.	92.92	0.37%	57,711	115,423
REYNOLDS METALS CORP.	91.97	0.37%	57,121	114,243
SARGENT PAINT CO.	87.18	0.35%	54,146	108,293
FERRO CORP.	83.32	0.33%	51,749	103,498
SAFETY-KLEEN	80.00	0.32%	49,687	99,374
EMERY INDUSTRIES	69.94	0.28%	43,439	86,878
SUPERIOR OIL CO.	69.27	0.28%	43,023	86,045
U.S. NAVY (AVIONICS, WEAPONS SUPPORT)	68.35	0.27%	42,451	84,903
AURORA CASKET	68.20	0.27%	33,900	67,801
BURKE HALL	61.87	0.25%	38,427	76,853
CONNERSVILLE PAINT MFG.	59.94	0.24%	37,228	74,456
FORMICA CORP.	58.32	0.23%	36,222	72,444
KLOR-KLEEN INC.	58.29	0.23%	36,203	72,406
DRESSER INDUSTRIES	55.84	0.22%	34,681	69,363
PEERLESS POTTERY INC.	55.01	0.22%	34,166	68,332
WASTEPLEX	50.05	0.20%	31,085	62,171
REMOVAL CO.	45.37	0.18%	28,179	56,357
PERFECTION PAINT & COLOR	44.00	0.18%	27,328	54,656
LEBANON CORRECTIONAL INSTITUTION	44.00	0.18%	27,328	54,656
KEMPER DIV. OF TAPPAN	40.14	0.16%	24,930	49,861
SPRINGFIELD IMPREGNATOR, INC.	37.67	0.15%	23,396	46,793
U.S. AIR FORCE	37.40	0.15%	23,229	46,457
CUSTOM INDUSTRIAL CORP.	34.20	0.14%	21,241	42,482
WILLIAMS MFG. CO.	32.72	0.13%	20,322	40,644
DEMOLITION, INC.	30.00	0.12%	18,633	37,265
MIDWEST WASTE DISPOSAL CO.	28.87	0.12%	17,931	35,862
UNIV. OF ILLINOIS/JONES	28.32	0.11%	17,589	35,178
JELICO, INC.	27.50	0.11%	17,080	34,160
MOBILE WASH OF LOUISVILLE	27.50	0.11%	17,080	34,160
FOY JOHNSTON, INC.	26.03	0.10%	16,167	32,334
JUSTIN INDUSTRIES	25.58	0.10%	15,887	31,775
CRADDOCK FINISHING CO.	25.03	0.10%	15,546	31,092
BY-PRODUCTS MGMT., INC.	25.00	0.10%	15,000	30,000
* FAWCETT PRINTING	24.21	0.10%	15,000	30,000
AYR-WAY INDUSTRIES	23.37	0.09%	15,000	30,000
FIBERKING	22.82	0.09%	15,000	30,000
ASTRO CONTAINERS, INC.	22.27	0.09%	15,000	30,000
MCAIR	22.00	0.09%	15,000	30,000
LEXINGTON BLUE-GRASS ARMY DEPOT	22.00	0.09%	15,000	30,000
WASTE DISPOSAL, INC.	22.00	0.09%	15,000	30,000
FRANK ENTERPRISES	21.72	0.09%	15,000	30,000
H.S. CROCKER CO.	21.72	0.09%	15,000	30,000
KIECHLER MFG. CO.	20.90	0.08%	15,000	30,000
NEUTRON PROD INC	18.00	0.07%	15,000	30,000
PREMIUM FINISH	17.60	0.07%	15,000	30,000
RED SPOT PAINT AND VARNISH CO.	16.77	0.07%	15,000	30,000
STRUCT. LIGHT PLASTIC	16.10	0.06%	10,000	20,000
H.O. CAMPFIELD MFG.	15.12	0.06%	10,000	20,000
WM. B. TABLER CO.	14.85	0.06%	10,000	20,000

Allocation -- U.S. v. Seymour Recycling Corp.

COMPANY	QUANTITY (DECIMAL) (TONS) PERCENTAGE		SHARE OF \$15,000,000	De Minimis SETTLEMENT OPTION
VEGO CHEMICAL CO.	14.30	0.06%	10,000	20,000
SPRAY-DYNE CORP.	14.30	0.06%	10,000	20,000
MECO	12.67	0.05%	10,000	20,000
VAN WATERS & ROGERS	10.17	0.04%	10,000	20,000
BROWNING-FERRIS	9.62	0.04%	7,500	15,000
AREA SANITATION	9.62	0.04%	7,500	15,000
TARA CORP.	9.58	0.04%	7,500	15,000
FOSTER TRANSFORMERS (SEYMOUR ELECT)	9.35	0.04%	7,500	15,000
DARE-PAPCO	8.53	0.03%	7,500	15,000
MIAMI INDUSTRIES	6.60	0.03%	5,000	10,000
BOWMAR INSTRUMENT CORP.	6.60	0.03%	5,000	10,000
DIXIE SOLVENTS AND CHEMICAL	5.50	0.02%	5,000	10,000
KD LAMP CO.	5.50	0.02%	5,000	10,000
PHILLIPS MFG. CO.	5.50	0.02%	5,000	10,000
TRICO, INC.	4.95	0.02%	5,000	10,000
PYRAMID CHEMICAL	4.40	0.02%	5,000	10,000
MIDWEST PLATING	4.12	0.02%	2,500	5,000
PLAS-STEEL PRODUCTS, INC.	3.85	0.02%	2,500	5,000
M&M METALS	3.85	0.02%	2,500	5,000
AMERICAN SIGN CO.	3.85	0.02%	2,500	5,000
CINCI BOX AND PART CO.	2.75	0.01%	2,500	5,000
FAULTLESS CASTER	2.40	0.01%	2,500	5,000
K&T INDUSTRIES	2.20	0.01%	2,500	5,000
ACCURATE RACK CO.	1.92	0.01%	2,500	5,000
PRECISION INDUSTRIES, INC.	1.65	0.01%	1,500	3,000
GRAY MART	1.38	0.01%	1,500	3,000
UNIMET CORP.	1.38	0.01%	1,500	3,000
STONE CITY PRODUCTS	1.10	0.00%	1,500	3,000
HOOVER CO.	0.83	0.00%	1,500	3,000
UNIVERSAL SCIENTIFIC	0.83	0.00%	1,500	3,000
METAL FINISHING CO	0.55	0.00%	1,500	3,000
GREAT LAKES CHEMICAL	0.55	0.00%	1,500	3,000
ARKLA IND.	0.55	0.00%	1,500	3,000
K&W PRODUCTS	0.55	0.00%	1,500	3,000
UNIV. OF KENTUCKY	0.38	0.00%	1,500	3,000
ELECTRA CORP.	0.27	0.00%	1,500	3,000
HEAD DIGITAL SYSTEMS	0.03	0.00%	1,500	3,000
GAF CORP	0.03	0.00%	1,500	3,000
HARVEY ALUMINUM	0.03	0.00%	1,500	3,000
TENNESSEE EASTMAN CO	0.02	0.00%	1,500	3,000
HUMKO PRODUCTS	0.01	0.00%	1,500	3,000
SUBURBAN SANITATION	0.01	0.00%	1,500	3,000
LITHIUM CORP OF AMERICA	Unknown	Unknown	1,500	3,000
SOUTHWIRE COMPANY	Unknown	Unknown	1,500	3,000
WORLD COLOR PRESS, INC.	Unknown	Unknown	1,500	3,000

THE "REMEDIAL ACTION PLAN"
CAN BE FOUND IN THE SITE FILE
IN A K.3 ACC FOLDER

EXHIBIT VI

Snyde Acres Area Description

The Snyde Acres area is described herein in Sections I through V. For the purposes of this Exhibit, in addition to Sections I through V, the legal description of Snyde Acres shall include the areas identified in the Court's order of March 27, 1984, regarding the installation of a public drinking water supply to Snyde Acres.

Snyde Acres, Section I

Legal Description

Beginning at a point in the County Road 884.46 feet North 00 degrees, 56 minutes, 30 seconds West from a stone marking the Southwest corner of Section 24, Township 6 North, Range 5 East; thence North, 422.49 feet; thence North 07 degrees 19, minutes, 40 seconds East, 242.38 feet; thence North 01 degree, 49 minutes West, 566.19 feet to center line of State Road No. 50; thence North 61 degrees, 13 minutes, 30 seconds East, 288.37 feet; thence South 20 degrees, 46 minutes, 30 seconds, East 180 feet; thence South 01 degree, 42 minutes East, 249.37 feet; thence South 14 degrees, 39 minutes, 13 seconds West, 120 feet; thence South 36 degrees, 39 minutes East, 156.2 feet thence South 52 degrees, 21 minutes West, 327.20 feet; thence South 36 degrees, 39 minutes East, 6.23 feet; thence South 53 degrees, 21 minutes West, 471.23 feet to the point of the beginning. Containing 8.35 acres in the southwest quarter of said Section, Township, and Range. In addition to the street, alley, and easement dedicated herein, land is hereby dedicated as shown on the plat for a public drain along the southeast side of this plat.

Snyde Acres, Section II

Legal Description

Part of the Southwest quarter of Section 24, Township 6 North, Range 5 East, Jackson County, Indiana, more particularly described as follows:

Commencing at the southwest corner of said Section 24; thence North 00 degrees, 56 minutes, 30 seconds West, 884.46 feet; thence North 422.49 feet; thence North 87 degrees, 19 minutes, 40 seconds East, 242.36 feet; thence North 01 degree, 42 minutes West, 566.45 feet to the centerline of U.S. Highway 50; thence along the approximate centerline of said highway North 61 degrees, 13 minutes, 30 seconds East, 270.33 feet, to the true point of beginning, said point being the Northeast corner of Snyde Acres Subdivision; thence continuing along the approximate centerline of said Highway North 61 degrees, 24 minutes East, 611.32 feet; thence South 30 degrees, 33 minutes East, 379.82 feet; thence South 55 degrees, 43 minutes West, 52.10 feet, thence South 29 degrees, 02 minutes East, 201.83 feet to the physical centerline of County Road 425N; thence along the approximate said centerline South 53 degrees, 12 minutes West, 650.75 feet; thence continuing along said approximate centerline South 45 degrees, 23 minutes West, 70.92 feet; thence North 36 degrees, 39 minutes West, 195.75 feet; thence North 01 degree, 44 minutes West, 364.37 feet; thence North 28 degrees, 16 minutes West, 180.35 feet to the true point of beginning containing 9,900 acres subject to highway and county road right-of-way.

Snyde Acres, Section III

Legal Description

A part of the West half of Section 24, Township 6 North, Range 5 East, Jackson County, Indiana more particularly described as follows:

Commencing at the Southwest corner of said Section 24; thence North 00 degrees 56 minutes, 30 seconds West (an assumed bearing), 884.46 ft.; thence North, 422.49 ft.; thence North 87 degrees 19 minutes, 40 seconds East, 242.36 ft.; thence North 01 degree 42 minutes 00 seconds West, 566.45 ft., to a point in the center of U.S. Hwy. 50; thence along the approximate centerline of said highway, North 61 degrees, 13 minutes, 30 seconds East, 270.33 ft.; thence continuing along said centerline, North 61 degrees 24 minutes East, 611.32 ft., to the true point of beginning; thence continuing along said centerline, North 61 degrees 24 minutes East, 1101.39 ft.; thence, South 00 degrees, 41 minutes East, 469.65 ft.; thence South 72 degrees, 14 minutes West, 196.62 ft.; thence South 00 degrees, 41 minutes East, 221.32 ft., to a point in the approximate center of County Road 425N; thence along said centerline the following courses: South 67 degrees, 22 minutes West, 172.59 ft.; thence South 61 degrees, 39 minutes West, 121.03 ft.; thence South 55 degrees, 52 minutes West, 330.99 ft., to a point in the approximate centerline of said County Road; thence North 29 degrees, 02 minutes West, 201.83 ft.; thence North 55 degrees, 43 minutes East, 52.10 ft.; thence North 30 degrees, 33 minutes West, 379.82 ft., to the true point of beginning, containing 11.642 acres, more or less, subject to highway right-of-way.

Snyde Acres, Section IV

Legal Description

A part of the West half of Section 24, Township 6 North, Range 5 East, Jackson County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of said Section 24; thence North - 00 degrees - 56 minutes - 30 seconds - West (an assumed bearing), 884.46 ft.; thence North - 422.49 ft.; thence North - 87 degrees - 19 minutes - 40 seconds - East, 242.36 ft.; thence, North - 01 degrees - 42 minutes - 00 seconds - West, 566.45 ft. to a point in the center of U.S. Hwy. 50; thence along the approximate centerline of said highway, North - 61 degrees - 13 minutes - 30 seconds - East, 270.33 ft.; thence continuing along said centerline, North - 61 degrees - 24 minutes - East, 611.32 ft. to the Northwest corner of Snyde Acres, Section III; thence South - 30 degrees - 33 minutes - East, 379.82 ft.; thence South - 55 degrees - 43 minutes - West, 52.10 ft.; thence South - 29 degrees - 02 minutes - East, 201.83 ft. to the Southwest corner of Snyde Acres, Section III, said point being in the approximate center of County Road 425N (Schleiter Road), and also being the true point of beginning; thence along the approximate centerline of said County Road, North - 55 degrees - 52 minutes - East, 330.99 ft.; thence continuing along said centerline, North - 61 degrees - 39 minutes - East, 121.03 ft.; thence continuing along said centerline, North - 67 degrees - 22 minutes - East, 40.39 ft.; thence South - 02 degrees - 26 minutes - East, 128.11 ft.; thence North - 87 degrees - 34 minutes - East, 120.00 ft.; thence South - 01 degrees - 04 minutes - East, 656.65 ft.; thence South - 89 degrees - 07 minutes - West, 635.00 ft.; thence North - 01 degrees - 04 minutes - West, 464.38 ft.; to the approximate center of said County Road 425N (Schleiter Road); thence along the approximate centerline of said Road, North - 53 degrees - 12 minutes - East, 110.28 ft. to the true point of beginning, containing 9.312 acres, more or less, subject to county highway right-of-way and all established legal easements.

Snyde Acres, Section V

Legal Description

A part of the south half of Section 24, Township 6 North, Range 5 East, Jackson County, Indiana, more particularly described as follows:

Commencing at the southwest corner of said Section 24; thence North - 00 degrees - 56 minutes - 30 seconds - West (an assumed bearing), 884.46 ft.; thence North 422.49 ft.; thence North - 87 degrees - 19 minutes - 40 seconds - East, 242.36 ft.; thence, North - 01 degrees - 42 minutes - 00 seconds - West, 566.45 ft. to a point in the center of U.S. Hwy. 50; thence, along the approximate centerline of said highway, North - 61 degrees - 13 minutes - 30 seconds - East, 270.33 ft.; thence continuing along said centerline, North - 61 degrees - 24 minutes - East, 611.32 ft. to the northwest corner of Snyde Acres, Section III; thence South - 30 degrees - 33 minutes - East, 379.82 ft.; thence South - 55 degrees - 43 minutes - West, 52.10 ft.; thence South - 29 degrees - 02 minutes - East, 201.83 ft. to the southwest corner of Snyde Acres, Section III; thence along the approximate centerline of County Road 425N (Schleter Road) South - 53 degrees - 12 minutes - West, 110.28 ft.; thence South - 01 degrees - 04 minutes - East, 464.38 ft.; thence North - 89 degrees - 07 minutes - East, 635.00 ft. to the southeast corner of Snyde Acres, Section IV, said corner being the true point of beginning; thence North - 01 degrees - 04 minutes - West, 656.65 ft.; thence North - 87 degrees - 34 minutes - East, 240.00 ft.; thence North - 63 degrees - 33 minutes - East, 113.67 ft.; thence North - 59 degrees - 04 minutes - East, 297.27 ft.; thence South - 30 degrees - 56 minutes - East, 200.00 ft.; thence South - 01 degrees - 04 minutes - East, 1202.57 ft.; thence South - 89 degrees - 33 minutes - West, 700.00 ft.; thence North - 01 degrees - 04 minutes - West, 509.30 ft. to the true point of beginning, containing 19.908 acres more or less, subject to all legally established easements.

EXHIBIT 7

EXHIBIT 7

DEED RESTRICTIONS

The BOARD OF AVIATION COMMISSIONERS OF SEYMOUR, INDIANA (the "Board", also known as Seymour Aviation Commissioners), hereby imposes restrictions on the following described real estate known as the Seymour Recycling Corporation site (the "Seymour Site") in Jackson County, in the State of Indiana:

A part of the Northwest quarter of Section 25, Township 6 North, Range 5 East of Jackson County, Indiana and being more particularly described as follows:

Commencing at the Northwest corner of said quarter; thence North 88 degrees 40 minutes East a distance of 2150.0 feet along the North line of said quarter to a point marked with a 1" iron pipe; thence South 01 degree 12 1/2 minutes East a distance of 1040.3 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 415.9 feet to a 1" iron pipe, the point of beginning, said point of beginning is also the Southeast corner of tract 25D; thence South 00 degree 58 minutes East a distance of 656.0 feet to a point marked with a 1" iron pipe, thence South 89 degrees 12 minutes West a distance of 702.0 feet to a point marked with a 1" iron pipe; thence North 01 degree 00 minutes West a distance of 324.0 feet to a point marked with a 1" iron pipe; thence South 89 degrees 16 minutes West a distance of 120.0 feet to a point marked with a 1" iron pipe; thence North 00 degree 54 minutes West a distance of 332.0 feet to a point marked with a 1" iron pipe; thence North 89 degrees 12 minutes East a distance of 822.0 feet to the point of beginning, and containing 11.49 acres, more or less, and depicted as Part A on Exhibit 2 of the Consent Decree described below; AND

A part of the Northwest quarter of Section 25, Township 6 North, Range 5 East of Jackson County, Indiana and being more particularly described as follows:

Commencing at the Northwest corner of said quarter; thence North 88 degrees 49 minutes East a distance of 2150.0 feet along the North line of said quarter to a point marked with a 1" iron pipe; thence South 01 degree 12 1/2 minutes East a distance of 1040.3 feet to a point marked with a 1" iron pipe;

thence South 89 degrees 12 minutes West a distance of 415.9 feet to a 1" iron pipe; the point of beginning, said point of beginning is also the Northeast corner of tract 25C, thence South 89 degrees 12 minutes West a distance of 465.7 feet to a point marked with a railroad spike; thence Northeasterly along a curve to the right along the centerline of the road to a point marked with a railroad spike, said point being North 21 degrees 24 minutes a distance of 91.5 feet from the last preceding point; thence North 44 degrees 21 minutes East a distance of 605.7 feet along the centerline of the road to a point marked with a railroad spike; thence South 00 degree 58 minutes East a distance of 512.2 feet to the point of beginning, and containing 2.95 acres, more or less, and depicted as Part B on Exhibit 2 of the Consent Decree described below.

This description is subject to 33 feet right-of-way for the above mentioned road.

The following restrictions are imposed upon the Seymour Site for the purpose of preventing interference with the performance of remedial action pursuant to the Consent Decree approved by the United States District Court for the Southern District of Indiana, Indianapolis Division, on _____, 1988 (the "Consent Decree") and are required by paragraph 58 of the Consent Decree:

1. There shall be no consumptive or other use of the groundwater underlying the Seymour Site that could cause exposure of humans or animals to the groundwater underlying the Seymour Site.
2. There shall be no residential or commercial use of the Seymour Site, including but not limited to the construction, installation or use of any structures or buildings for residential or commercial purposes.
3. There shall be no use of the Seymour Site that would allow the continued presence of humans at the Seymour Site, other than any presence necessary for implementation of remedial action under the consent decree.

Prohibited uses which would allow the continued presence of humans at this particular real estate will include but not necessarily be limited to recreational or educational uses.

4. There shall be no installation, construction or use of any buildings, wells, pipes, roads, ditches or any other structures at the Seymour Site except as approved by the United States Environmental Protection Agency ("U.S. EPA") as consistent with the Consent Decree and the Remedial Action Plan which is Exhibit 5 to the Consent Decree.

All of the above restrictions shall run with the land. The restrictions set forth in paragraph No. 1 above shall continue in perpetuity. The remaining restrictions shall remain in full force and effect until U.S. EPA issues a determination in writing pursuant to paragraphs 46 and 58 of the Consent Decree that no further maintenance of the multi-media cap required by Section XI of the Consent Decree or other remedial action is necessary at the site.

If the property owner intends to permit the use of the Seymour Site after termination of the restrictions set forth in paragraphs 2-4 above, the owner shall give at least sixty (60) days prior notice of the intended use of Part A of the Site (as shown in Exhibit 2A of the Consent Decree) to the parties to the Consent Decree. Any party may object to the intended use of Part A on the grounds that such use would expose humans, animals or plants to soil contaminants remaining at the Site, cause wind dispersal or surface run-off to carry soil contaminants off the Site, or cause migration of contaminants beyond the Site boundaries in excess of the Cleanup Standards set forth in

paragraph 17 of the Consent Decree. Any party so objecting shall notify the owner in writing within thirty (30) days of receipt of notice of the intended use. If necessary to resolve the dispute, any party to the Consent Decree may move the Court (the United States District Court for the Southern District of Indiana, Indianapolis Division) for a resolution of the dispute in accordance with Section XXI of the Consent Decree.

The undersigned persons executing these Deed Restrictions on behalf of the Board represent and certify that they are duly authorized members of said Board and have been fully empowered, by proper resolution of said Board and by compliance with any other applicable requirements of law, to execute and deliver these Deed Restrictions.

IN WITNESS WHEREOF, the said Board of Aviation Commissioners of Seymour, Indiana (also known as Seymour Aviation Commissioners) have caused these Deed Restrictions to be executed this 4th day of August, 1988.

Seal

Board of Aviation Commissioners
of Seymour, Indiana (also known
as Seymour Aviation Commissioners)

By: *Robert H. McGett*

ATTEST:

Anna E. Carey

William L. Culbert

STATE OF INDIANA)
) SS:
COUNTY OF Jackson)

Before me, a Notary Public in and for said County and State, personally appeared ROBERT R. MYERS and STANLEY E. GARVEY and WILLIAM L. COLLISON and _____, respectively, of the Board of Aviation Commissioners of Seymour, Indiana (also known as Seymour Aviation Commissioners) a Department of the Executive of the City of Seymour, Indiana, and acknowledge the execution of the foregoing Deed Restrictions on the Seymour Recycling Corporation Site for and on behalf of said Board.

Witness my hand and Notarial Seal this 4th day of August, 1988.

My commission expires:
1/13/92

Signature Jeffrey R. [Signature]
Printed JEFFREY R. [Signature]
Notary Public

Residing in Jackson County,
Indiana

This document was prepared by Catherine R. McCabe, attorney at law.

EXHIBIT 8

EXHIBIT 8

DEED RESTRICTIONS

The BOARD OF AVIATION COMMISSIONERS OF SEYMOUR, INDIANA (the "Board", also known as Seymour Aviation Commissioners), hereby imposes restrictions on the following described real estate which surrounds the property known as the Seymour Recycling Corporation site (the "Seymour Site") in Jackson County, in the State of Indiana:

A part of the West half of Section 25, Township 6 North, Range 5 East, in Jackson County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of Section 25, Township 6 North, Range 5 East, said corner being marked with a corner stone, thence South 1 degree and 13 minutes East along the West line of said Section 25, for a distance of 2800 feet; thence North 88 degrees 40 minutes East, 2800 feet; thence North 1 degree and 13 minutes West for a distance of 2800 feet to a point on the North line of said Section 25; thence South 88 degrees and 40 minutes West along the North line of said Section 25 for a distance of 2800 feet to the point beginning and containing 180 acres more or less.

The deed restrictions imposed herein do not govern use of the Seymour Site, which is located within the above-described real estate and is described in Exhibit 7 to the Consent Decree in United States v. Seymour Recycling Corp. et al., No. IP-80-457-C. Use of the Seymour Site is governed instead by the Deed Restrictions set forth in Exhibit 7 to the Consent Decree described below.

The following restrictions are imposed upon the Real Estate described in this Exhibit for the purpose of preventing interference with the performance of remedial action pursuant to the Consent Decree approved by the United States District Court

for the Southern District of Indiana, Indianapolis Division on _____, 1988 (the "Consent Decree") and are required by paragraph 59 of the Consent Decree:

1. There shall be no use of the Real Estate in any manner that could cause exposure of humans or animals to contaminated groundwater in concentrations that present or may present a threat to health (i.e. concentrations above the Cleanup Standards set forth in paragraph 17 of the Consent Decree).
2. There shall be no use of the Real Estate that will interfere with the remedial action for the Seymour Site as described in the Consent Decree and the Remedial Action Plan, which is attached to the Consent Decree as Exhibit 5.
3. There shall be no residential or commercial use of the Real Estate that would allow continued presence of humans, including but not limited to the construction, installation or use of buildings for residential or commercial use of this Real Estate that would allow such continued presence. Prohibited uses of this Real Estate shall not include agricultural crop growing and land application of sludges from the City of Seymour, Indiana publicly-owned treatment works.

Prior to permitting any use of the Real Estate, the owner of the Real Estate shall give at least sixty (60) days prior notice of the intended use to the parties to the Consent Decree. Prior notice shall not be required for agricultural crop growing, unless irrigation will be allowed or used, or for land application of sludges from the City POTW. Any party objecting to such use as violating the restriction(s) set forth herein shall so notify the owner of the Real Estate in writing within thirty (30) days of receipt of such notice. If necessary to

resolve the dispute, any party to the Consent Decree may move the Court (the United States District for the Southern District of Indiana, Indianapolis Division) for a resolution of the dispute in accordance with Section XXI of the Consent Decree.

The restrictions in paragraphs 1 and 2 of this deed restriction shall run with the land and shall remain in full force and effect until the Consent Decree is terminated by the United States District Court for the Southern District of Indiana, Indianapolis Division, pursuant to Section XXXIV of the Consent Decree, and all post-termination groundwater monitoring is completed.

The restrictions in paragraph 3 of this deed restriction shall not apply after termination of the Consent Decree, except that during the post-termination groundwater monitoring period no use of groundwater beneath the real estate described herein shall occur without prior notice and opportunity to object under the above provisions of this deed restriction. In any event, the Board of Aviation Commissioners may petition EPA to terminate the restrictions in paragraph 3 of this deed restriction after EPA has given its approval to discontinue air monitoring pursuant to Section 6.2.1.4 of the RAP, attached as Exhibit 5 to the Consent Decree.

The undersigned persons executing these Deed Restrictions on behalf of the Board represent and certify that they are duly authorized members of said Board and have been fully empowered, by proper resolution of said Board and by compliance with any

other applicable requirements of law, to execute and deliver these Deed Restrictions.

IN WITNESS WHEREOF, the said Board of Aviation Commissioners of Seymour, Indiana (also known as Seymour Aviation Commissioners) have caused these Deed Restrictions to be executed this 4th day of August, 1988.

Seal

Board of Aviation Commissioners
of Seymour, Indiana (also known
as Seymour Aviation Commissioners)

By: Robert R. McFadden

ATTEST:

Shirley E. Gentry

William L. Callison

STATE OF INDIANA)
) SS:
COUNTY OF JACKSON)

Before me, a Notary Public in and for said County and State, personally appeared ROBERT R. MYERS and STANLEY E. HARVEY and WILLIAM L. COLLISON and _____, respectively, of the Board of Aviation Commissioners of Seymour, Indiana (also known as Seymour Aviation Commissioners) a Department of the Executive of the City of Seymour, Indiana, and acknowledge the execution of the foregoing Deed Restrictions on real estate surrounding the Seymour Recycling Corporation Site for and on behalf of said Board.

Witness my hand and Notarial Seal this 1st day of August, 1988.

My commission expires:

1/13/92

Signature

Printed

Notary Public

Residing in JACKSON County, Indiana

This document was prepared by Catherine R. McCabe, attorney at law.

EXHIBIT 9

EXHIBIT 9

EASEMENT GRANT

In consideration of one dollar (\$1.00), receipt of which is hereby acknowledged, and for other good and valuable considerations, the Board of Aviation Commissioners of Seymour, Indiana (the "Board", also known as Seymour Aviation Commissioners) hereby grants to the United States of America, the State of Indiana, and the parties identified on Attachment A ¹, their agents, assigns, representatives and contractors ("Grantees"), an easement in and over the following described real property for the purpose of performing all activities associated with the remedial action work pursuant to the Consent Decree entered by the United States District Court for the Southern District of Indiana, Indianapolis Division, on _____, 1988 (the "Consent Decree"), which property surrounds and includes the Seymour Recycling Corporation site ("Seymour Site") and is located on the following described real property:

A part of the West half of Section 25, Township 6 North, Range 5 East, in Jackson County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of Section 25, Township 6 North, Range 5 East, said corner being marked with a corner stone, thence South 1 degree and 13 minutes East along the West line of said Section 25, for a distance of 2800 feet; thence North 88 degrees 40 minutes East, 2800 feet; thence North 1 degree and 13 minutes West for a distance of 2800 feet to a point on the North line of said Section 25; thence South 88

¹ Attachment A is a list of Settling Defendants - (The Decree requires that the easement be granted to them as well as to the United States).

degrees and 40 minutes West along the North line of said Section 25 for a distance of 2800 feet to the point beginning and containing 180 acres more or less.

The above grant of easement shall be strictly construed as an easement only for the purposes herein stated and in no event shall the grant be expanded, through the passage of time or otherwise, as a grant of any greater interest in the Real Estate over which the aforesaid easement is granted. The above grant of easement supersedes the easement previously granted by the Board on March 24, 1987, except that the Board of Aviation Commissioners and the City of Seymour shall remain additional insureds under the insurance referenced in the prior easement for so long as that insurance continues.

The easement herein granted shall run with the land and shall terminate when the United States issues a written determination, pursuant to paragraphs 46 and 71 of the Consent Decree, that maintenance of the multi-media cap pursuant to Section XI of the Consent Decree, operation of the groundwater extraction system pursuant to Section VII of the Consent Decree, and post termination groundwater monitoring pursuant to paragraph 23 of the Consent Decree are no longer required, and that no additional remedial action is required.

The undersigned persons executing this Easement Grant on behalf of the grantor Board represent and certify that they are duly authorized members of said Board and have been fully empowered, by proper resolution of said Board and by compliance

with any other applicable requirements of law, to execute and deliver this Easement Grant.

IN WITNESS WHEREOF, the Board of Aviation Commissioners of Seymour, Indiana (also known as Seymour Aviation Commissioners) has caused this Easement Grant to be executed this 4th day of August, 1988.

Seal

Board of Aviation Commissioners
of Seymour, Indiana (also known
as Seymour Aviation Commissioners)

By:

Robert L. Myer

ATTEST:

William L. Collier

William L. Collier

STATE OF INDIANA)
) SS:
COUNTY OF JACKSON)

Before me, a Notary Public in and for said County and State, personally appeared ROBERT R. ALPHEUS and STANLEY E. GREGORY and WILLIAM L. CULLISON and _____, respectively, of the Board of Aviation Commissioners of Seymour, Indiana (also known as Seymour Aviation Commissioners) a Department of the Executive of the City of Seymour, Indiana, and acknowledge the execution of the foregoing Easement Grant for and on behalf of said Board.

Witness my hand and Notarial Seal this 4th day of August, 1988.

My commission expires:

1/13/92

Signature

Printed

Notary Public

Residing in JACKSON County, Indiana

This document was prepared by Catherine R. McCabe, attorney at law.

Exhibit 10

- (1) Cross-Claim of Defendant Lenk Manufacturing Company
v. PB&S Chemical Co.
- (2) Third-Party Complaint of Defendant Carstab Corporation
(Morton Thiokol, Inc.) v. Cincinnati Milacron, Inc.

EXHIBIT 11

EXHIBIT 11

Premium Settling Defendants

Sarkes Tarzian, Inc.
Union Carbide Corp.
Porter Paint Co.
Carthage Mills/Springlawn, Inc.
Emconite Corp. (Amerace Corp.)
Reynolds Metals Co.
Ferro Corp.
Connersville Paint Mfg. Co., Inc.
(C.P. Inc.)
Formica Corp. (American Cyanamid Company)
Peerless Pottery, Inc.
Perfection Paint and Color Corp.
Williams Mfg. Co.
University of Illinois
Craddock Furniture Corp. d/b/a
Craddock Finishing Corp.
By-Products Management, Inc.
Fawcett Printing Corp.
Fiberking
H.S. Crocker Co., Inc.
Premium Finishes, Inc.
Red Spot Paint & Varnish Co., Inc.
Meco, Inc.
Browning-Ferris, Inc.
Miami Industries (Division of Cyclops
Industries, Inc.)
Bowmar Instrument Corp.
Pyramid Chemical Sales Co.
Plas-Steel Products, Inc.
M&M Metals, Inc.
American Sign Co.
Cincinnati Box and Partition Co.
Faultless Caster Corp. (Division of
Babcock Industries, Inc.)
K&T Industries (K-T Corp. Division of
Alco Standard Corp.)
Accurate Rack Co.
Precision Industries, Inc.
Stone City Products, Inc.
The Hoover Co.
Metal Finishing Co., Inc.
Great Lakes Chemical Corp.
Arkla Industries, Inc.
K&W Products, Inc.
University of Kentucky
Mead Digital Systems, Inc.
GAF Corp.
Tennessee Eastman Co.
Lithium Corp. of America

Southwire Company
World Color Press, Inc.
City of Seymour
Board of Aviation Commissioners,
City of Seymour
Seymour Manufacturing Co., Inc.
Harold S. Hobson
Willis Hobson
Clifford Birge
Stanley Birge, Jr.
Angell Manufacturing Co.
Angex Corp.
U.S. Air Force
U.S. Navy
U.S. Army

CONSENT DECREE
with attachments

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on all the following counsel of record by first-class mail, postage prepaid, this 18th day of November, 1988.

Marcus P. McGraw
Greenbaum, Doll & McDonald
1400 Vine Center Tower
Box 1801
Lexington, Kentucky 46204

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Beveridge & Diamond P.C.
1333 New Hampshire Avenue N.W.
Washington, D.C. 20036

James R. Adams
Frost & Jacobs
2500 Central Trust Center
201 E. Fifth Street
Cincinnati, Ohio 45202

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& Irvine
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Washington, D.C. 20006

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Sommer & Barnard
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Jeffrey J. Lorenzo
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& Spilman
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David G. Millar
Millar, Schaefer & Hoffman
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St. Louis, Missouri 63101

Jack Watson
Deputy Attorney General
State of Indiana
219 State House
Indianapolis, Indiana 46204

John Etling
IDEM
Indiana Department of
Environmental Management
105 S. Meridian Street
Indianapolis, IN 46225


KURT WEISSMULLER

LIST OF SETTLING DEFENDANTS

Monsanto
Commercial Solvents (IMC)
Carstab Corp.
Kendall Co.
Jones Chemicals, Inc.
City of Seymour/Board of Aviation Commissioners
Mobil Chemical Co.
Container Corp. of America
Seymour Mfg. Co.
Lenk Mfg. Co.
PB&S Chemical Co.
Guardzman Chemicals
Phelps Dodge Industries
Contractors United
MCB Mfg. Chemists
Reliance Universal
Kentucky Electronics
Stewart-Warner Corp.
Hexcel Corp.
Ashland Chemical
Globe Union Corp.
Muller Industries
U.S. Steel
Velsicol Chemical
Lamson & Sessions
Dayton Press
Natico, Inc.
Cloudsley, Inc.
Haas Cabinet
A.O. Smith Corp.
Technical Products
Sarkes Tarzian
Union Carbide
Columbia Organics
Porter Paint Co.
E.H. Marcus Paint
Carthage Mills
Egyptian Lacquer
Hudson Wire Co.
IVC Ind. Coatings
Martin Marietta (Harvey Aluminum)
Wabash Products Co.
AM Greetings
Emconite Corp.
Clipay Corp.
Reynolds Metals Corp.
Sargent Paint Co.
Ferro Corp.
Safety-Kleen
Emery Industries
Superior Oil Co.

U.S. Navy (Avionics, Weapons Support)
Aurora Casket
Connersville Paint
Formica Corp.
Klor-Kleen, Inc.
Dresser Industries
Peerless Pottery, Inc.
Perfection Paint
Lebanon Correctional Institute
Kemper Div. of Tappan
Springfield Impregnator
U.S. Air Force
Williams Mfg. Co.
University of Illinois/Jones
Foy Johnston, Inc.
Craddock Finishing Co.
By-Products Mgmt., Inc.
Fawcett Printing
Fiberking
Astro Containers, Inc.
Lexington Blue Grass Army Depot
Frank Enterprises
H.S. Crocker Co.
Kiechler Mfg. Co.
Premium Finish
Red Spot Paint
Meco
Van Waters & Rogers
Browning-Ferris
Foster Transformers (Seymour Elect)
Miami Industries
Bowmar Instrument
Dixie Solvents
Phillips Mfg. Co.
Pyramid Chemical
Plas-Steel Products
M&M Metals
American Sign Co.
Cincinnati Box & Partition Co.
Faultless Caster
K&T Industries
Accurate Rack Co.
Precision Industries
Unimet Corp.
Stone City Products
Hoover Co.
Universal Scientific
Metal Finishing Co.
Great Lakes Chemical
Arkla Industries
K&W Products
University of Kentucky

Mead Digital Systems
GAF Corp.
Tennessee Eastman Co.
Lithium Corp.
Southwire Company
World Color Press
Angex
Angell Mfg. Co.